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California JOURNAL

Independent analysis of politics and government

1970 25 1995 Public Service Journalism

Inside:

The reality of Willie Brown

Senate in ascendency

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California JOURNAL

Independent analysis of politics and government

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As an ongoing feature of our 25th Anniversary year, the *Journal* will present essays and articles on issues of importance to California's future. This month, we focus on health care.

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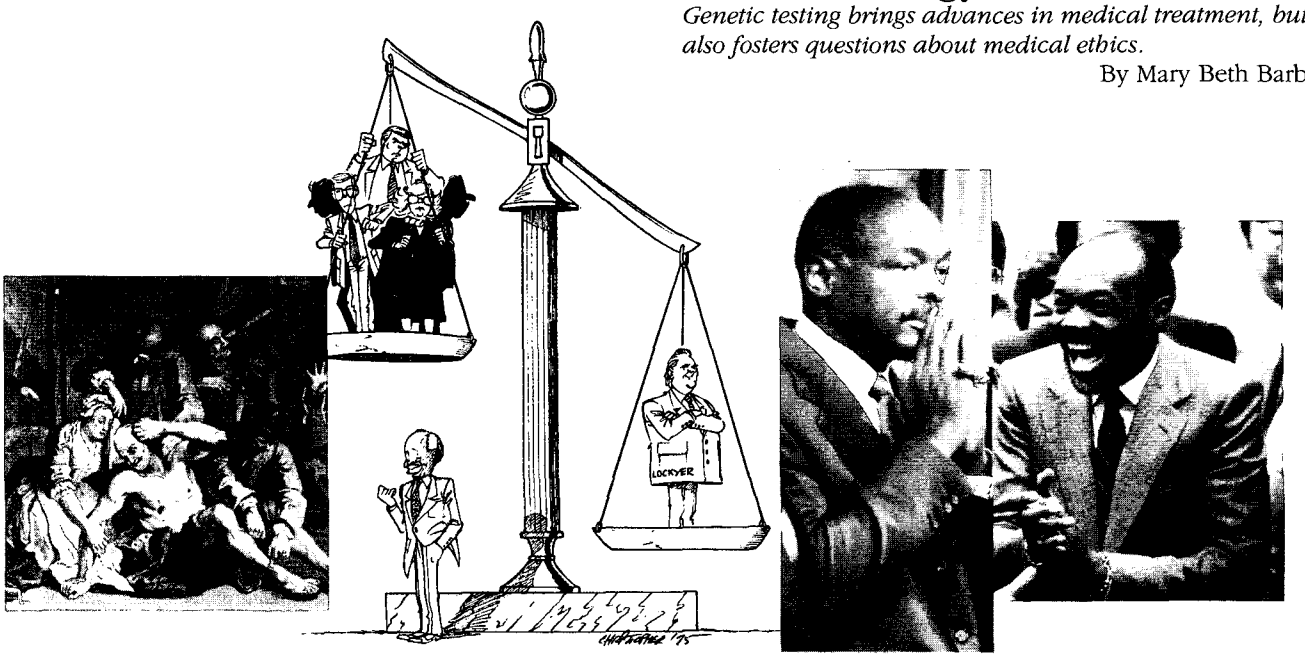

Cover: The Bride (1970) by Joan Brown. Courtesy of the University Art Museum, Berkeley. Brown received her art training at California School of Fine Arts, Oakland. As part of the Bay Area Figurative school, Joan painted personal, idiosyncratic and dreamlike images. She taught at UC Berkeley for many years and suffered an accidental death in 1990.

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Up Front

UMBRAGE

Idle hands. Few agencies of state government have a better grasp on the gravity of the state's fiscal situation than the Department of Finance. So serious and driven were they about the state's budget woes that they marked the passage of the June 15th constitutional deadline for passing a budget by rolling out ... a computer game. "Balancing the California Budget" started out as a code-writing exercise for in-house computer trainees, but according to Deputy Director H.D. Palmer, it expanded into "an educational tool." The Windows-based program, available on the Internet, allows players to accept or reject Governor Pete Wilson's budget priorities and choose other options with which to balance the budget based on actual numbers in the May revise. Every budget choice is greeted by a bit of pop-up spin reflecting Wilson's current fiscal sensibilities. At game's end, a *faux* newspaper headline offers the press assessment of how the game player fared. "Balancing the California Budget" may seem like an unimaginative name, but Finance had little choice. The more accurate name — "Mortal Kombat" — already was taken.

The new team. Since her elections as Assembly speaker, Doris Allen (R-Cypress) has been the target of more than a little GOP invective. Given the fact that all the votes that put her into the speakership came from either herself or Democrats, Republicans have considered her a Democrat. That opinion was enhanced last month when Allen began to assemble her team. One of the first on board was former Assemblyman Gerald Felando. Although a Republican, Felando was considered overly friendly to then-Speaker Willie Brown Jr. (D-San Francisco). Felando serves as a consultant to Allen. And then there are a couple of not-so-Republican aides, such as Alice Huffman, former political poobah of the California Teachers' Association, who has been "advising" Allen. Finally, there is Allen's fund-raising operation, whose first event was a $1000-per-person reception in Sacramento. Checks were to be made out the "Committee to Re-elect Doris Allen," although it is unclear what the term-limited speaker can be re-elected *to*. More important, however, is her committee's address in Sacramento. It is the same building that houses the offices of one Richie Ross, Brown's old campaign guru. Ross himself denies any connection to Allen, whose fund raising is being handled by Toni Roberts. Roberts usually works for Democrats, which is why her office is located in Ross' building.

The best defense. During the 1950s and '60s, it was said of former baseball great Willie Mays that his glove "is where triples go to die." Given how former Speaker Willie Brown Jr. has continually frustrated Republicans, even though the GOP holds a majority in the Assembly, it may now be said that "Willie Brown's brain is where Republican ambitions go to die."

Under my skin. When he served the Assembly Republican Caucus as communications director, Phil Perry was a font of information and rumor about Democrats and Speaker Willie Brown Jr. — and little of that information was flattering. Perhaps as a favor to Brown, Perry was one of the few GOP staffers permanently canned when Assemblywoman Doris Allen took over the speakership. But it seems that Brown didn't rid himself of Perry. The affable flack has signed on as press secretary to San Francisco Mayor Frank Jordan — Brown's chief opponent in the upcoming mayoral contest.

"Democracy is based on the conviction that man has the moral and intellectual capacity ... to govern himself with reason and justice."
— Harry Truman

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The Bottom Line

GOVERNMENT FINANCE

By Susan Rasky

The Rube Goldberg variations

In the steamy Philadelphia summer of 1787, several dozen lawyers, politicians and gentlemen farmers meet in the state house to revise the Articles of Confederation and produce the simple, elegant and enduring document known as the United States Constitution.

In the scorching Sacramento summer of 1995, two dozen lawyers, politicians and academics meet in temperature controlled offices and, after nearly two years of labor to revise the California constitution, recommend that the governor and legislators have their per diem pay docked each day the state budget is overdue and that the number of days a bill must be in print before it can be heard by the legislature be reduced from 30 to 10.

Could air conditioning be the problem?

Okay, it's a cheap shot — an irresistible, but specious comparison between the founding fathers drafting the country's governing principles and the earnest members of the California Constitution Revision Commission slogging through the 33,000 words and 485 amendments that make the current state constitution more useful as a door stop than a tool of governance. Nonetheless, the comparison may be instructive. The commission's preliminary report is due later this month, and after legislative hearings, final revision proposals go to lawmakers and the governor early next year. Those that win approval from two-thirds of the Legislature would go to voters on the November 1996 ballot.

Here's where things stand: The recommendations are likely to include a requirement that the governor and lieutenant governor run on the same ticket and explicit permission for the governor to appoint his second in command to an actual cabinet post. In addition, the elective offices of superintendent of public instruction, insurance commissioner and treasurer would be eliminated and instead become gubernatorial appointments subject to Senate confirmation. The constitutional status of the State Board of Education would be eliminated, and the board would instead be subject to statute. The Board of Equalization would be eliminated and replaced with either an appointed or elected tax appeals body, and the revenue functions of the BOE, the Franchise Tax Board and the Employment Development Department would be consolidated into a new Department of Revenue.

On the legislative side, the commission is looking at two alternatives that would dramatically decrease the number of constituents each Assembly member and senator now represent. One proposal would replace the Assembly and Senate with a single legislative body composed of 120 members with staggered four-year terms. Another would enlarge the Assembly to 120 members and the Senate to 60 and increase the maximum number of terms lawmakers could serve from three to five in the Assembly and two to three in the Senate. The budget would no longer require a two-thirds vote for passage, although tax-increase bills and urgency legislation would continue to need this super-majority. Legislators would be prohibited from fund raising while the Legislature meets.

To be fair, these are constructive organizational changes and fiscal reform proposals aimed at improving efficiency, flexibility and, most of all, accountability at each level of government. And for that effort, the commision members should be applauded.

But when it comes to the heart of California's governance and fiscal problems — the unworkable relationship between state and local government and the structure and financing of the public education system — the commission's proposals are little more than a tangled mess of platitudes and bookkeeping changes. These include authorizing counties to adopt "home rule" charters — presumably a way of giving them taxing authority; authorizing education "home rule charters" for the organization and operation of local school districts; requiring local allocation of the non-school property tax (about $10 billlion a year) but with no formula specified; and redesignating the existing one percent state sales tax as a local tax and estabilishing another, again unspecified, method for allocating it.

Maybe there's better accountability here but certainly none that an average voter could discern. As long as fiscal directives like Proposition 98 and Proposition 13 remain constitutional rather than statutory provisions, and as long as the lunancy of special taxing districts determine the state's tax structure, fundamental government overhaul is impossible. All of this remains largely outside the commission's scope. And that, as commission staff director Fred Silva observes, was by design — not the commision's but the Legislature's.

"The recommendations are going to be as bold as humanly possible, but you have to understand there are certain immutable physical laws that constrain us. We are a small deliberative body, we don't have the authority of a constitutional convention," Silva says.

Ah then, but neither did the Boys of Summer 1787. They took a close look at the Articles of Confederation that were sent to Philadelphia to revise and decided, most undemocratically, that the better course was to tear up that unworkable structure and build a constitution from scratch. In other words, they held a constitutional convention. Would that the California Constitution Revision Commission could do the same. Modern legal niceties prevent that, but if the panel truly wanted to be bold it would trash its current proposals and recommend that the Legislature call, organize and fund an honest to God convention.

Short of that, the menu of reform proposals California voters will be asked to decide upon in November 1996 amount to little more than replacing our current Rube Goldberg governmental structure with Goldberg variations that may be even worse.

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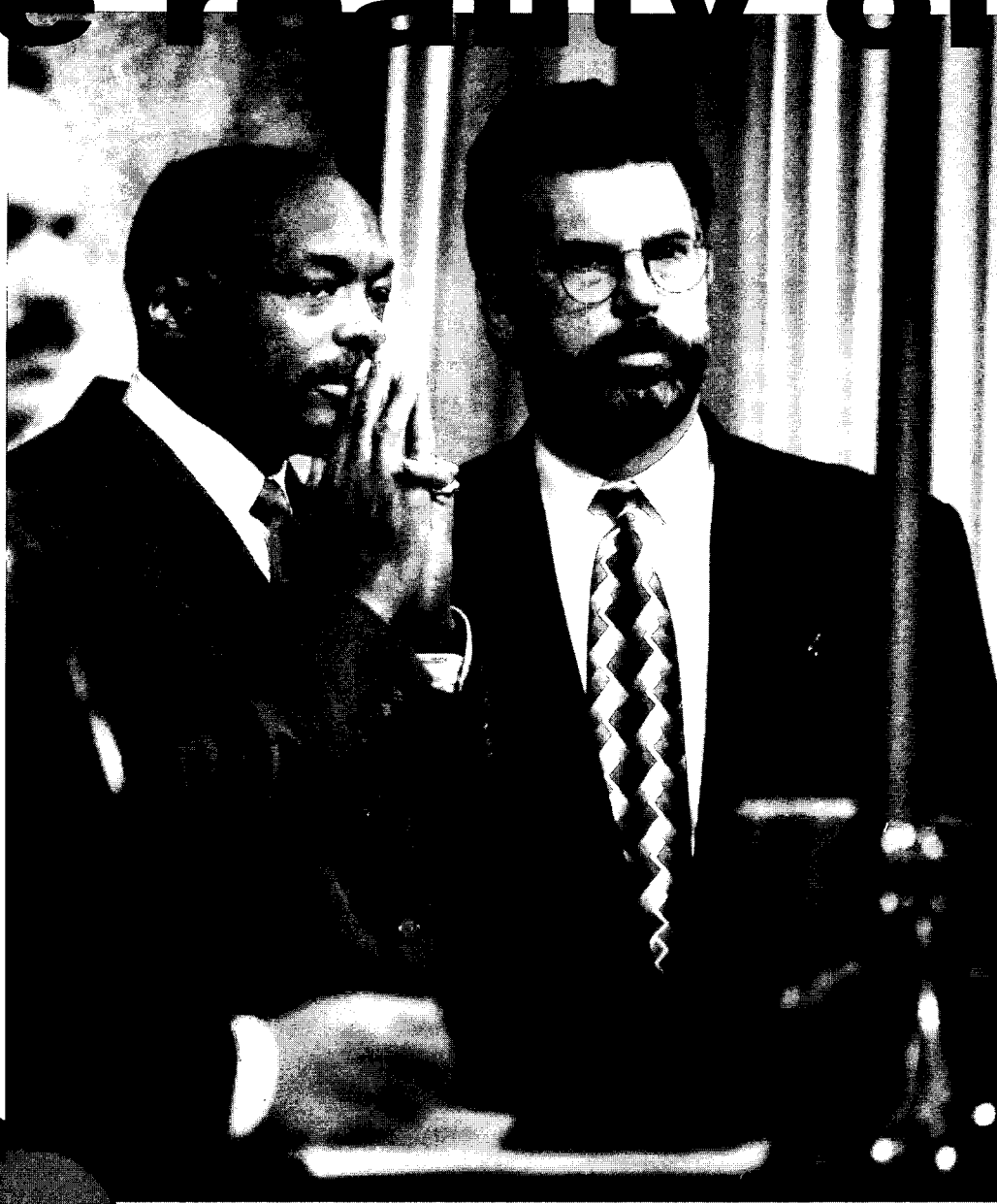
The reality of

By A.G. Block



Brown and Richard Katz ponder the last moments of Brown's speakership this past May.

Illustration by Ric Hugo

In the autumn of 1971, Roberto Clemente was nearing the end of an illustrious baseball career that would eventually see him enshrined in the Hall of Fame. Clemente, the product of a Puerto Rican slum, reached the defining moment of his professional life that year when his Pittsburgh Pirates met the favored Baltimore Orioles in the World Series. Pittsburgh won, *The New Yorker's* Roger Angell wrote, because Clemente had played a brand of baseball that none had seen before, "throwing and running and hitting at something close to absolute perfection, playing to win but also playing the game as if it were a form of punishment for everyone else on the field." In the process, Clemente enhanced what had already been a formidable legend.

A quarter century later, another superstar reached the defining moment of his professional life near the end of what

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Willie Brown Jr.

When the former speaker departs the Assembly, he will leave behind an unprecedented chronicle of adventure. He also will leave behind a legend that is part myth, part truth — and very complex.

Photos by Rich Pedroncelli

Brown celebrates moments after becoming speaker, 1980.

also had been an illustrious career. Although this superstar's arena was politics, the words applied so eloquently to Roberto Clemente could just as aptly have been written about Willie Lewis Brown Jr., San Francisco Democrat, in the winter of 1994-95.

Brown, then speaker of the Assembly, already was a legend in California politics when the November 1994 elections denied his Democratic caucus a majority for the first time since 1970. Republicans had gained 41 seats in the 80-member house and were poised to claim the power and booty that falls to the majority — power that Brown himself had wielded as speaker since 1980.

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To end Brown's unprecedented run as speaker, Republicans needed only to elect one of their own to the top post. All else flowed from that one, simple act. But when the new speaker was sworn into office on January 24, 1995, it was not a Republican. It was, instead, Willie Lewis Brown Jr. (see *CJ*, February 1995). To once again claim the gavel, he had wooed a disgruntled Republican-turned-independent into voting for him, used dubious parliamentary tricks and less-than-robust logic to oust yet another Republican from his duly elected seat, and held skittish members of his own team together in the face of mounting pressure from the other side.

In May 1995, Brown finally relinquished the speakership, but he did so in a way and at a time of his own choosing. And although he passed the gavel to a Republican — in fact, cast the deciding vote for her speakership — he passed it to a Republican angry with her own caucus, and one who seemed to have as her sole agenda a revenge-driven assault on GOP

California Journal 10/81

California Journal 6/82

colleagues (see *CJ*, July 1995). In denying his enemies the satisfaction of throwing him from office, he enhanced nearly every element of the fable that has grown up around Willie Brown.

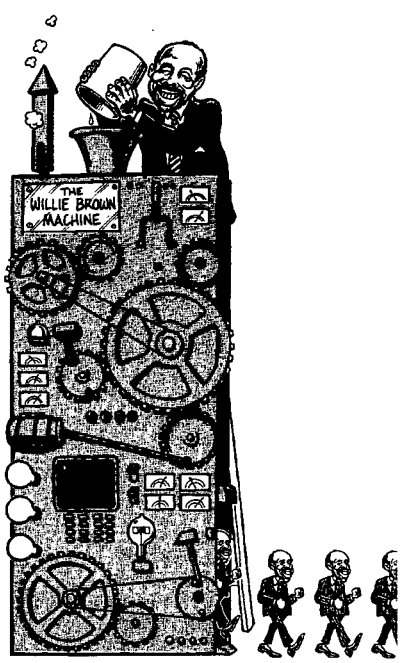
In the main, his is not a flattering legend. To the outside world, Brown is a brilliant but devious intellect and a politician of questionable ethics for whom the ends justify the means. He is regarded as an iron-fisted dictator who uses his power to personally determine the fate of every piece of legislation and who uses the perception of that power to extort millions of dollars in campaign contributions from monied special interests. But he also is considered an unvarnished liberal and the enemy of business. On a more personal note, he is seen by many whites as a flamboyant African-American man who flaunts his power and who touts his triumphs in a white-dominated world.

That legend is the perception by which the world judges Brown, and by which it may judge his ultimate legacy as a lawmaker and legislative leader. While some of the reputation is deserved, not all of it reflects the reality of Willie Brown during his long tenure as speaker, according to those who have worked with, for and against the former speaker.

Brown himself points Democratic domination of the Assembly as the cornerstone of his reputation. "My most enduring legacy," he said recently, "was being able to maintain the Democratic majority despite ... two Republican governorships ... and a dramatic reduction in the number of Democrats registered to vote in California. Despite that, and despite three reapportionments, two or three changes in the nature of campaign contributions, dozens of special elections — within all of that context, I maintained the Democratic majority in such a way that the agenda of Democrats, and the programs that Democrats had put into place, were effectively protected."

It is impossible in these few pages to deal adequately with all of the elements that make up Brown's long, complex and often tumultuous career. But it is possible to explore the myth and the reality and to try to distinguish between the two when gauging the legacy he leaves behind after 32 years in the Legislature.

The myth of Willie Brown parts with the reality of Willie Brown in several ways. For instance, the myth casts him as an iron-fisted dictator, but to those who served with him, especially Democrats but also some Republicans, he will be remembered mostly as "a members' speaker" — one who gave colleagues tremendous leeway to form and push their own policy agendas.



California Journal 8/8

"He was a leader in the best sense of the word," said former Assemblyman Mike Roos (D-Los Angeles), who served Brown as speaker pro tempore before leaving the Assembly in 1989 to accept a job in the private sector. "He allowed others to develop their own ideas. And if your ideas gained momentum, he'd use *his* equity with members to secure it. And he would never take credit

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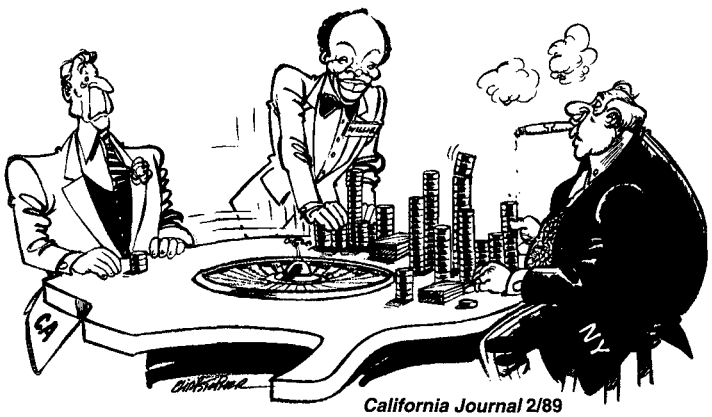
for the work."

"He had the ability to unleash the creative abilities of colleagues and staff," said Senate President pro Tempore Bill Lockyer (D-Hayward), who served with Brown in the Assembly before moving to the Senate in 1983. "This is the mark of a great leader."

"If anything," said Assemblyman Phil Isenberg (D-Sacramento), "he didn't exercise power often enough. He probably overlearned the right lesson when he lost the speakership the first time around. People who he'd been close to for years ... turned on him. So did the ethnics. After that, Willie never forgot that you have to pay attention to everyone."

To Brown, "paying attention" meant being willing to lend a hand with personal problems, even to a staunch foe, if the colleague would only ask for it. Brown's attentiveness was not entirely altruistic, however, and there was a price for accepting. "He knows what the votes he needs want," said one longtime lobbyist. "This isn't necessarily in substantive



California Journal 2/89

areas, but in ego areas — the things that really matter to people."

One infamous episode involved former Assemblywoman, now Senator Cathie Wright (R-Simi Valley), whose daughter once faced having her driver's license suspended after a number of traffic violations. Brown tried to intercede with judicial authorities on Wright's behalf. The help paid off later that same year when Wright refused to go along with fellow Republicans and dissident Democrats known as "the Gang of Five," who were attempting to overthrow Brown's speakership (see *CJ*, April 1988).

"He reads people better than anyone," said a former Republican legislator. "He knows where your buttons are. He knows what drives people better than they know it. He understands people, their strengths and weaknesses. I knew if I ever needed help with something, not a bill but something in my personal life, that he would help. And he'd do it even if I was being punished for something else. I never asked, but I knew it would be there."

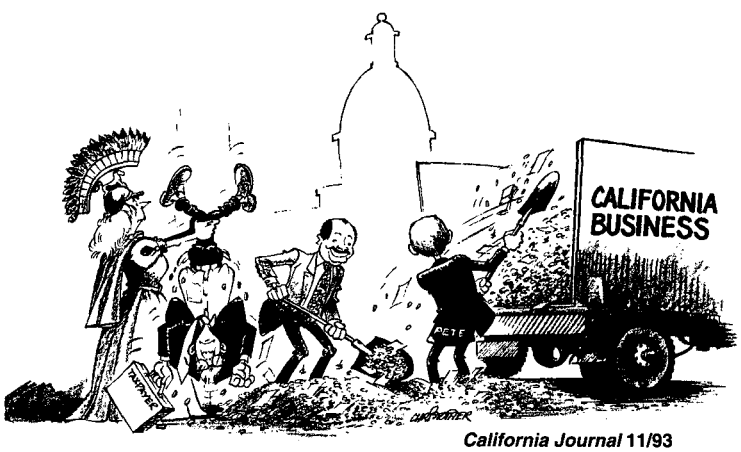
That sentiment was echoed by Secretary of State Bill Jones, who served as Assembly minority leader in 1991 and 1992. "I made it a point never to ask him for anything," said Jones, "but I would agree that the help would have been forthcoming."

Brown had his price, of course. One member said that, above all, he demanded to be treated with respect. One observer used the word "obeiscence," saying that Brown always noticed if lobbyists or other legislators didn't attend his fund raisers, even if they had given him contributions. And he used his authority to "punish" members from both parties — almost as a father might punish an obstreperous child. As one member recalled, punishments included banishment to a small office, removal from a favorite committee, stripping away staff, or being assigned to two committees that met at the same time.

"He was a member's speaker in a patriarchal sense," said Senator Tom Hayden (D-Santa Monica), who served in the Assembly from 1982 to 1992. "In exchange for his help, he demanded 110 percent loyalty." Hayden recalled that when he and Brown were at loggerheads over increased fees at the University of California, Brown "used every tool in his power to keep the debate over fees off the [Assembly] floor." On the other hand, Hayden admitted, "he named me to chair the higher-ed policy committee ... and gave me a lot of slack despite the fact that I was a pain in the ass."

Isenberg noted that as a "members' speaker," Brown compares favorably with his predecessor: Democrat Leo McCarthy of San Francisco. Although he retired with what Isenberg termed a "squeaky clean" image, McCarthy dictated the course of most policy legislation far more extensively than did Brown. Brown, he said, rarely interfered. When he did interevene, his efforts were public and often ham-handed, such as temporarily pulling a foe off of a policy committee and replacing him or her with an ally who would vote Brown's way, or pulling some parliamentary trick to waylay a bill after it had mustered the votes to pass the house.

But Brown's desire to be a members' speaker also is responsible for the politicization of Assembly staff. McCarthy considered committee staff off limits for newly appointed committee chairmen; when they took over, they inherited the staff and could not tinker with it. But Brown allowed



California Journal 11/93

members a freer hand, and gradually over the years, committee employees became more beholden to chairmen than to the institution itself. Brown also is responsible for the explosion in the number of people working for the Legislature, for one of the ways he rewarded members for allegience was to create additional subcommittees or select committees for them, which brought additional staff under the members' control. The politicized staff reached its nadir with the Office of Majority Services, which provided a number of services for Democratic members but also was used as a holding tank for campaign operatives who slipped off the state payroll to run elections and reappeared during off-years.

Another myth is that Willie Brown was the champion of liberal causes and the avowed enemy of conservatives and business. It was a perception advanced over the years by a

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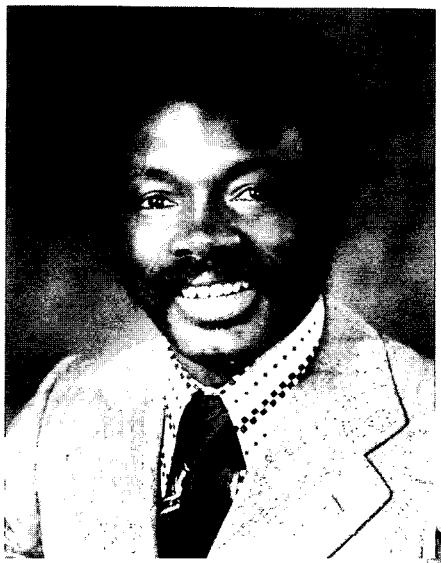
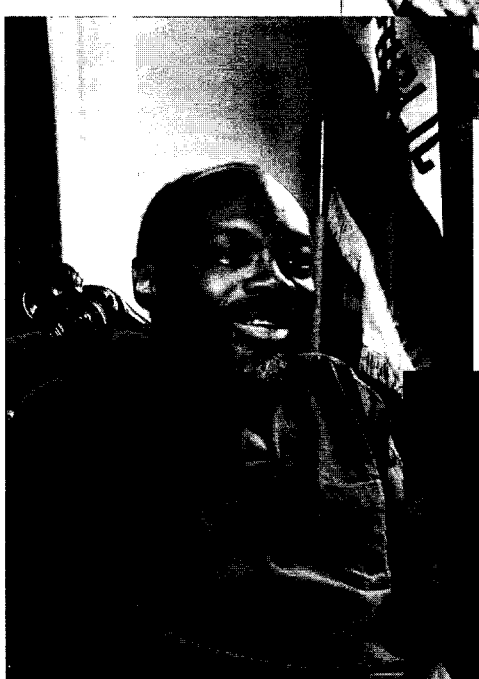
steady drumbeat of campaigns conducted against Democrats in places such as Fresno, Bakersfield, Riverside and San Diego, where a vote for the local Democrat was portrayed as a vote for "liberal" Willie Brown.

The reality is different, and some of Brown's sharpest critics are liberals. "It's unfortunate that he didn't use his great skills for good public policy, because he had the power to do so," said Ruth Holton, executive director of California Common Cause, who echoed the sentiments of many on the left. "Early in his career, he was very involved with childrens' issues ... but when people think of Willie Brown now, they think about his fund-raising prowess. He could have stood his ground on behalf of the underclass, but he didn't."


1975

In fact, those who represent business interests readily admit that they are sorry to see Brown go. "The fact is that the business community is so much better off with Willie Brown," said a lobbyist who represents several *Fortune 500* corporations. "Willie compromises. He deals with people. A liberal like [the late] Phil Burton never compromised. He had an agenda and it was that 'poor people get the stick and I'm going to do something about it.'"

"Willie Brown is pretty much what business types have always wanted in a Democrat," said Isenberg.

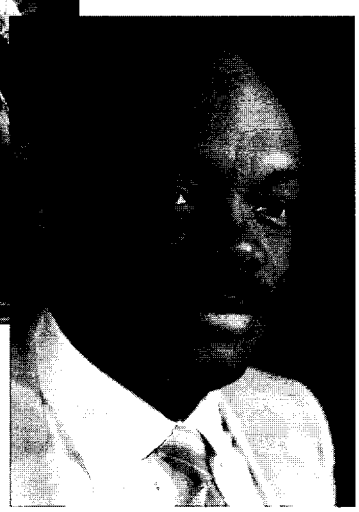

1986

No less a business ally than Governor Pete Wilson agrees. "Although we have strenuously opposed each other at times," said Wilson, "working together, we have achieved some good things for California. He's a tough negotiator who doesn't go back on his word, and I've been very pleased at the changes we've accomplished together." Wilson cited the state's improved business climate, and gave Brown credit for helping advance bills that reformed workers' compensation and created tax incentives for small business and for manufacturing. "A lot of people will miss Willie Brown for this reason," Wilson said, hinting that he will be one of them. On the governor's mind may have been Brown's help in gathering the votes for budget compromises in 1993-94 and 1994-95 that were decidedly conservative and favored proposals advanced by Wilson.

For his part, Brown bristles at criticism from the left, acidly referring to his critics as "professional liberals ... who will not get their hands dirty, who will not engage in practicality to care for their constituencies." Brown explained that while he may have negotiated a suspension of cost-of-living increases for welfare recipients, he also insisted on balance by negotiating the suspension of indexing for state income taxes. "I've always been absolutely focused on balance," he said.

1986

And then there is the myth of Brown the all-consuming fund raiser, the extortionist *extraordinaire* who used every fiber of his soul to wring campaign contributions out of recalcitrant givers. That he was a prodigious fund raiser is beyond dispute. Campaign-finance records show that Brown may be the single most proficient legislative money raiser in American history. But one lobbyist attributed Brown's success not to the notion that he was the world's greatest arm-breaker but to the fact that people *thought* he wielded life-or-death power over every policy decision.


1989

"[Lobbyists] are amazed at how much money Willie gets out of people without really asking for it," said one lobbyist. "People fell all over themselves to come to him to participate. He created the perception that he was active behind the scenes on many issues when, in fact, he wasn't."

The lobbyist recalled an incident — repeated a hundred times over the years — where, at the critical moment in a committee debate over a bill, Brown wandered into the hearing room and whispered to several committee members. The perception, said the lobbyist, was that Brown had told them how to vote. The reality was that he had said nothing to them; he merely created an impression.

The continual quest for campaign contributions — and the growing influence of special interests that supplied those

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contributions — are parts of the Brown legend that fall close to the truth, however. Brown did not pioneer special-interest fund raising, but he perfected it. He used money to solidify his influence and power by providing it to Democratic lawmakers who needed large warchests to survive at the polls. Along the way, he set an ethical tone for his house, a tone that seemed to condone the selling of access. He also created an "arms race," whereby other legislators felt compelled to vie for money to enhance their own power. A few folks who were not as adroit at the fund-raising game as Brown now languish in federal prison because they tried to

cjWeekly 12/12/94

compete on his level.

And there are those who feel that Brown ultimately misunderstood the fundamental lesson of the man who created the modern legislature, and the modern approach to fund raising — the late Jesse Unruh. "Unruh started out," said one lobbyist, "saying that *if* you can't take their money, drink their booze and screw their women and vote against them — you don't belong here. In the end, he came to the conclusion that you *can't* [vote against them]. And Willie is living proof."

"[Brown] out-Unruhed Unruh," said Michael Josephson, founder of the Josephson Institute of Ethics, who complained that Brown equates ethics with legality. It is an approach that Josephson characterized as "a minimalist, narrow view on the requirements of ethics." While commending Brown for acting "above board and very open," his approach "pays little attention to the messages that are being sent."

And the message, Josephson and others felt, helped create the Legislature's moral morass that led to a federal "sting" operation aimed at several lawmakers and resulting in the conviction of several senators and Assembly members (see *CJ*, August 1994). "Brown bears some responsibility," said Josephson, "not because he has done anything wrong, but because he has done nothing to elevate the ethical standards of the Legislature. In fact, he has been perceived as an obstacle to overcome."

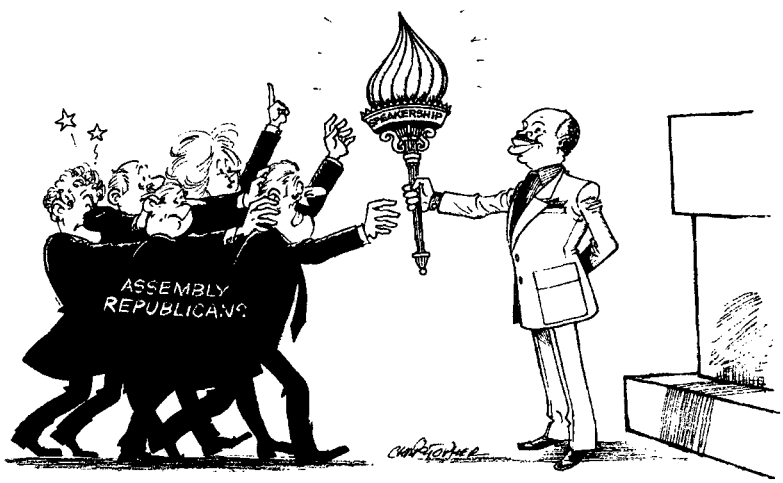
"It is unfair that Willie Brown should have done anything like [campaign reform]," argued Isenberg. "He was foremost a strategic and tactical political leader, and he did not have the luxury. Legislators are transactional leaders. We do 'the deal.' We make the system work. If you expect inspiring religious leaders from a legislature, then you don't understand the function of a legislative environment."

Another less-flattering part of the Willie Brown legacy is just emerging: an Assembly that has nearly disappeared as a civil, deliberative body. The reasons are varied and complex and involve public disillusionment in the institutions of government, the most vivid expression of which was the passage of Proposition 140 in 1990 — term limits. They also involve Brown's own machinations this past winter, which kept him in the speakership but which also helped exacerbate an atmosphere of distrust and rancor between Republicans and Democrats.

"Much of the public resentment toward the Legislature spins around the Assembly and their antics," said Senate Minority Leader Ken Maddy (R-Fresno). "On the whole, I think [Brown has] been positive, but he may be tabbed to carry the luggage for ... things people have done, like the corruption, the 'arms race.'"

"As with all human beings," noted Lockyer, "their strength is often the source of weakness. Willie's extraordinary skill at manipulating people and events has planted that atmosphere in the Assembly, where too much time is spent in day-to-day tactical exercises and silly one-upmanship. He is not doing that and is, in fact, removed from it, but his example has been noted by others less able to do it with the skill and *pananche* that he brought to it."

The final legacy of Willie Brown will not be written for many years, but it will likely involve more myth than reality. On one point, however, his impact is clear: Brown occupies



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a unique niche in California political history. "Willie Brown will be a very important step in the progress of change and adjustments of society," said Isenberg, who likened him to former Los Angeles Mayor Tom Bradley. Both, said Isenberg, were Black men elected by essentially non-Black constituences. "This is the single most historical part of his legacy: the transition from the post-World War II era of white dominance to this multi-ethnic, multi-cultural, diverse, complex, convoluted and angry society."

It will also be said of Brown that he maneuvered through political waters at "something close to absolute perfection, playing to win but also playing the game as if it were a form of punishment for everyone else on the field."

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Imbalance of

The Senate is quietly becoming the Legislature's dominant house

by Steve Scott

There are few institutions which more accurately reflect the extremes in decorum and philosophy which have come to characterize American society in the '90s than the California Assembly. These days, Assembly sessions find Republicans and Democrats literally shouting across the aisle at one another, with personal invective — and the odd obscene gesture — substituting for the fine art of debate. If the Assembly were a hockey game, the penalty box would be S.R.O.

By comparison, the state Senate seems like the Assembly on Valium. Although the issues and ideologies are just as heartfelt, everything and everyone moves more slowly in the Senate. With a few exceptions, members are almost irritatingly polite to one another, and the excruciatingly long speeches and roll-call voting make it seem like nothing will ever get done. Visitors to the Capitol might be tempted to bypass the Senate and spend their time in the more entertaining Assembly. To do so, however, would mean passing up the house which is emerging as the place where the real work of lawmaking is taking place.

When it comes to the fine art of legislating, the Senate is increasingly where the action is.

The signs pointing to the Senate's importance are everywhere. For the first time in recent memory, more legislation is being introduced and passed in the 40-member Senate than in the 80-member Assembly. Key Assembly staffers, including one of its top budget analysts, have migrated to the Senate. Lobbyists, advocates and administration officials looking to build consensus for their legislation are increasingly focusing their efforts on the upper house. Perhaps most tellingly, some campaign contributors have, at least for the moment, held back on contributions to Assembly leadership PACs, while continuing to give to those in the Senate.

"There's no question that the policy work is being done in the Senate," says Jerry Haleva, a former Senate staffer-turned-lobbyist. "You have two things working for you [in the Senate]: stability and history."

The Senate has always been viewed as the less explosive and more deliberative of the two houses. Its smaller membership, coupled with an institutional demeanor that stresses collegiality, has created an air of bipartisan cooperation. During a protracted 64-day budget stalemate in 1992, the Senate had achieved a two-thirds majority on legislation that would have ended the impasse before it began, and its budget ultimately became the framework for the final deal. Still, despite its emphasis on cooperation and compromise, the Senate has spent much of the last three decades in the long shadows cast by powerful Assembly speakers, such as Jesse Unruh and Willie Brown (see page 6).

All that changed last November, when Republicans achieved a majority for the first time since 1970, setting in motion a sequence of events leading to Brown's exit from the speakership. While the long-term impact of

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power

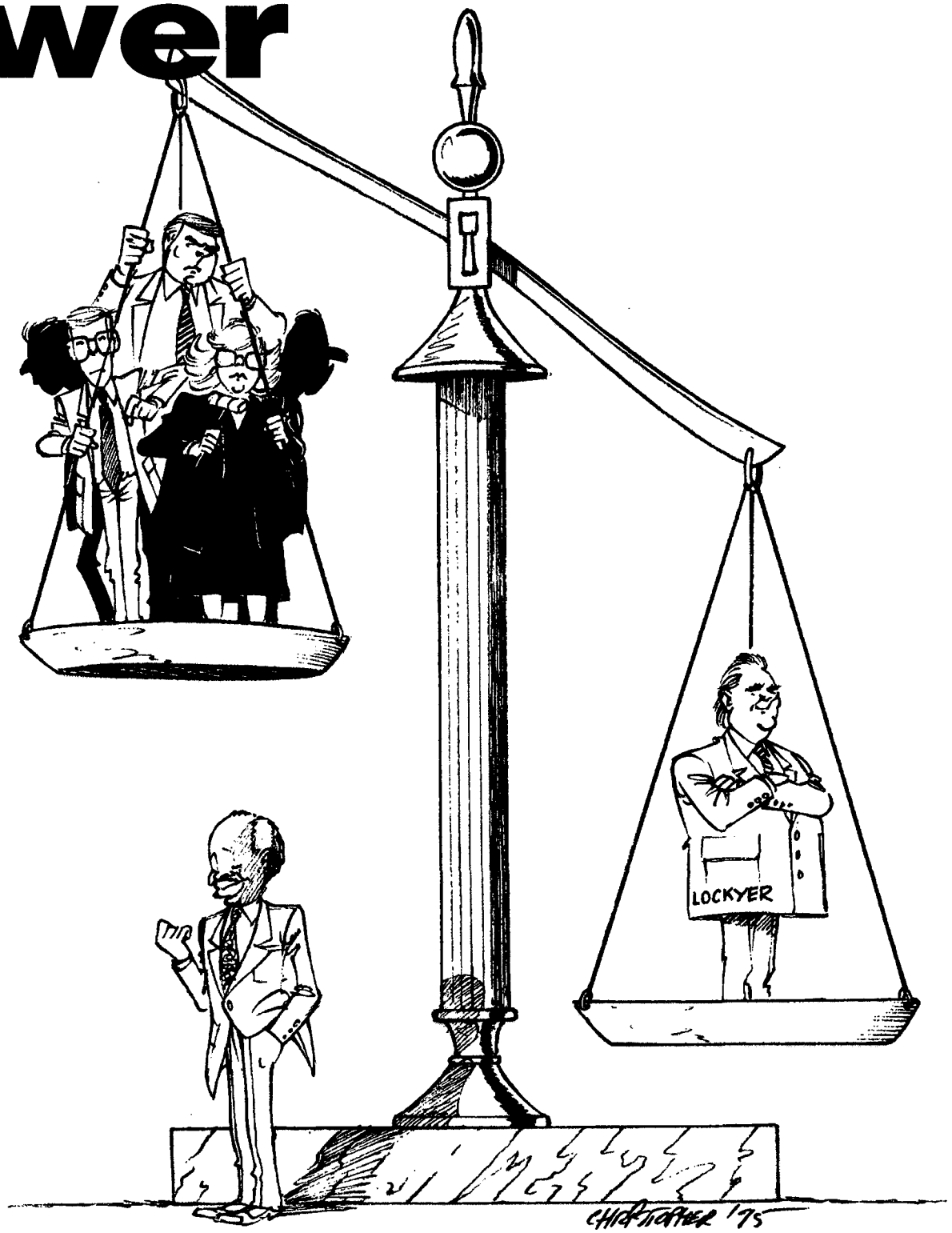

Illustration by Christopher

Brown's tactical maneuvering will be left for historians to decipher, the short-term effect is indisputable: chaos. Evenly-divided committees in the Assembly have locked up both Democratic and Republican policy initiatives, leaving only those issues about which there is relatively little opposition or disagreement. Brown's role in engineering the election of Republican Doris Allen as speaker led to the unusual spectacle of GOP lawmakers conspiring against the first speaker of their party in a quarter-century.

With the Assembly unsettled, the Senate has become the place to take bills you hope to get passed. Compromises on such thorny questions as state-local realignment and re-writing the state's Environmental Protection Act have gained most of their momentum in the Senate. One Wilson administration official concedes the Assembly unrest is what prompted them to pursue a major new student-testing proposal through the Senate.

The most visible sign of the power shift has been this year's budget fight, still unresolved as of early July. Evenly divided Assembly subcommittees wrangled endlessly, and

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unproductively, about philosophical issues — that is, when they were able to achieve a quorum at all. The expanded two-house conference committee dithered for weeks, failing to reach compromise on anything really substantive, thanks to the deadlock among Assembly conferees. Meanwhile, Senate budget conferees worked among themselves to find common ground, and there are indications Senate leaders might try, as they did in 1992, to craft their own bipartisan solution.

"Because of the policy vacuum in the Assembly, there is inevitably a shift of power to the Senate," says Tim Hodson, director of the Sacramento-based Center for California Studies.

Assembly members, both Democrat and Republican, deny that any great shift of power has taken place and argue that what shift there has been is temporary. Assembly Republican Caucus Leader Jim Brulte (R-Rancho Cucamonga) believes the narrow majority makes the Assembly a better avenue for creative policy.

"We now have policy fights that are legitimate policy fights," says Brulte. "On any given day any member can introduce any bill or motion, and it can pass or fail."

If there has been a shift in policy influence from the Assembly to the Senate, one of its primary beneficiaries is Senate President pro Tempore Bill Lockyer (D-Hayward). For one thing, Lockyer is the only legislative leader whose position within his caucus is relatively secure. The struggles between Allen and Brulte have Assembly Republicans tied in knots. Brown has one foot out the door as he campaigns to become mayor of San Francisco. In the Senate, the rise of Senator Rob Hurtt (R-Garden Grove) as the chief election strategist has eroded the influence of Senate GOP Leader Ken Maddy (R-Fresno). Maddy survived a 1993 challenge from Hurtt, but only after putting his rival in charge of the caucus' campaign effort. Since then, new arrivals to the Senate have been more ideologically and temperamentally compatible with Hurtt's in-your-face conservatism than Maddy's more low-key moderate politics.

"The degree to which Senator Maddy controls that caucus these days is questionable," says one lobbyist. "Clearly, Hurtt has a great deal of influence, as does [San Bernardino GOP Senator] Bill Leonard."

Maddy and Hurtt both maintain their differences have been set aside for the greater goal of achieving a majority. "There's no open friction," says Leonard, who has been something of an intermediary between the two. "If nothing else, what's happened to the Assembly Republicans reinforces our common goal to take over the Senate, and that our personal disagreements ought to be secondary." Hurtt seems less concerned about Maddy's commitment than that of some of the rest of his colleagues. "Ken is doing a lot of things that

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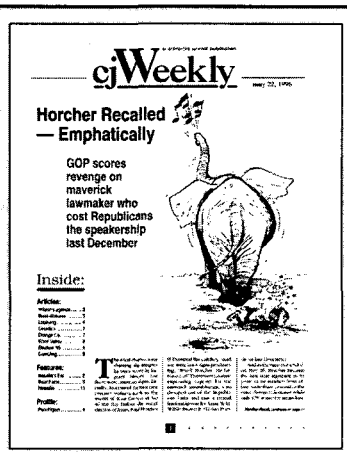
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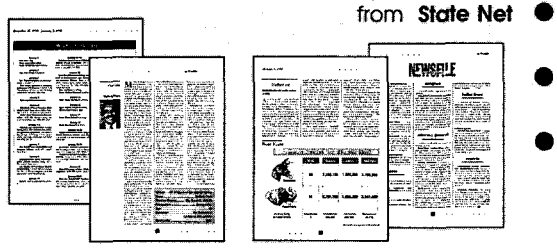

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are helping us," he says, "but we also need some help from some of our other troops, too."

For his part, Maddy insists he's not in immediate danger, but he has no illusions about how long that will last. "If we win in '96, and I'm down to my last couple of years, there's going to be a great deal of activity regarding who's in leadership," he says.

In addition to his relative security as a legislative leader, few will deny that Lockyer has eclipsed Brown as the most influential Democrat in the state. While the former speaker was losing his majority in the Assembly, Lockyer retained his, leaving him as the only protection for his party's policy priorities and political constituencies. Lockyer concedes his position places more responsibility on him to keep Wilson and the Assembly Republicans in check.

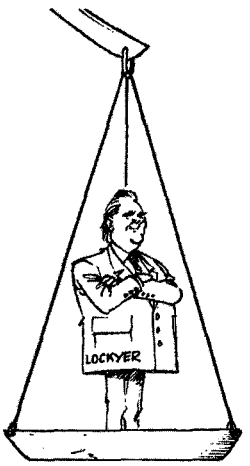
"Environmental law, tax policy, labor law, and consumer protection ... are the principal areas where our constituencies and philosophies will be at great risk," he says. "There's a hope that we will be successful in preventing serious harm to those perspectives."

As the Democratic seawall blocking the "Republican wave," Lockyer is positioned to scarf up contributions from traditional Democratic donors, such as public employee unions, trial lawyers, and the education community. "Democrat money is more likely to gravitate to Lockyer, because he's seen as the plug that's holding everything up," says GOP political consultant Wayne Johnson. Traditionally conservative business donors also will likely gravitate toward Lockyer, since they no longer will feel compelled to give to Brown, the lame-duck leader of a minority party.

Is it happening? Well, Lockyer says he recently had "a $500,000 week" in his money-raising efforts. By way of comparison, Brulte claims to have raised $1 million since November, and still carries an outstanding debt from the 1994 elections. Lockyer says he doesn't use the Assembly turmoil as a selling point, but only because he doesn't have to. "Routinely, [contributors] say to me, 'The Assembly is a mess ... it looks like a high school food fight,'" he says. Hurtt also reports increased interest in his GOP effort as a result of the Assembly unrest. "Some of the 'third house' people [lobbyists] have been saying, 'Hurtt, get your presentation together,'" he says. "We shall respond to the call."

"I'm sure there are lobbyists getting migraines trying to figure out who to give to," jokes Hodson. "Who's in charge? Who do you suck up to?"

While there is disagreement about whether the Senate is more powerful now, few dispute the contention that the Senate's influence will expand considerably when term limits take full effect in 1996. "Long-term, with term limits, there's a power shift to the Senate," concedes Brulte, who will himself be running for Senate next year. The migration



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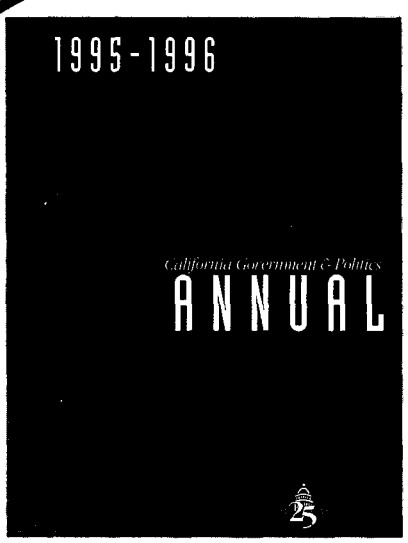

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of staff from one side to the other is only one factor leading to this prediction. A larger factor will be the concomitant migration of people like Brulte, making the transition from one house to the other.

"We'll have greater expertise because we'll have people who serve a few years in the Assembly, then migrate to the Senate," says Lockyer. "We'll benefit from their expertise."

Of course, some of the people moving over from the Assembly will be the same impatient, term-limited hotheads currently churning the waters in the lower house. UC-San Diego political science professor Gary Jacobson, who studies term limits, says the Senate's eight-year terms are "still pretty short," and there's no inherent reason why the Senate will be all that much more stable. "They're still going to be worried about their futures," says Jacobson. "You're still going to see them running for Congress or other offices." Concerns about their career track may also increase the temptation of some to break through the somnolent decorum of the Senate and turn it into "Assembly, Part Deux."

"You've got so many new people ... who ran on platforms of not getting along," says former Democratic Senator Barry Keene, now a political science lecturer at CSU-Sacramento. "It's going to take an enormous effort to absorb this group of belligerents and I don't know if it's possible."

Lockyer believes it is possible, but only by continuing to work on keeping the Senate's "institutional culture" intact. He has earned praise from friend and foe alike for his accessibility and skill in organizing the house. Once a bomb-thrower himself, Lockyer has also earned credit for, as one lobbyist put it, "exercising control over some of his previous instincts."

Whether Lockyer's discipline results in better policy decisions depends, of course, on how one views the outcomes. While the Senate may be a more pleasant place to do business, the Democratic majority still means that Democrats win most of the battles, and Republicans lose most of them. "With Democratic majorities on all the committees, the results are pretty much pre-ordained," notes Brulte. On the other hand, there is no systemic reason why the Assembly couldn't be just as disciplined, if one party or the other was capable of achieving a clear majority.

"We [Senate Democrats] count very much on Republicans to divide among themselves," says Senator Tom Hayden (D-Santa Monica), a veteran of both houses. "If they start up the hill with 41, straight at us, I don't know what will happen."

Even if the Assembly is never able to fully contain its infighting, it will never be irrelevant so long as legislation must clear both houses in order to become law. Lockyer believes the Assembly will become "the house of advocacy," while the Senate serves as the "social glue that forges compromises and has a more balanced product." The cohesiveness of that glue, however, will depend in large measure on who's applying it.

"With all the turnover, there's going to be an even higher premium on the particular talents of particular legislators," says Assemblyman Wally Knox (D-Los Angeles). "That's going to be the dominant factor over the long haul."

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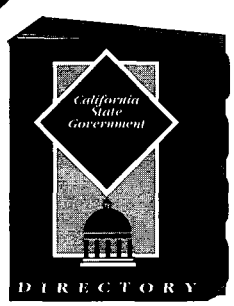

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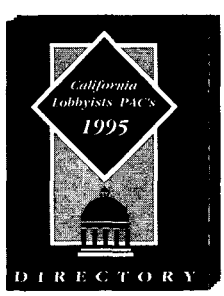

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The revolution

California has been a trendsetter for innovation in health care. The result has been high-quality medicine, but also an expensive and inequitable care system fraught with waste. But change is upon us once again.

By Bruce Bronzan

Since World War II, innovative trends in health care — from top-notch medical treatment to ever-more-innovative research — have emerged in California and spread to the rest of the nation. Indeed, California not only has the best of everything but has the best in incredible overabundance.

But as the 20th century fades into the 21st, a new revolution is sweeping through the universe of health care. This upheaval represents nothing less than a complete restructuring of the medical delivery system, and a complete change in how dollars are spent within that system. And once again, California is in the vanguard of change, for it was here that Californians developed the two most dominant trends in the current world of medicine: managed care and collective purchasing. And it is here, in the local "marketplace" of medicine, that health-care reform may happen faster than anywhere else in the country.

The history of financing health care mostly has been defined in two ways: by private insurance on an "ability to pay" basis and by fee-for-service reimbursement. As a result, two trends have emerged: the highest quality of individual physicians, hospitals, medical schools, research breakthroughs, technology, and specialty medical procedures on

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Bruce Bronzan is an associate dean of the University of California, San Francisco, School of Medicine in Fresno. A former Democratic legislator, Bronzan chaired the Assembly Health Committee for several years prior to leaving the Legislature in 1993. Before being elected to the Assembly in 1982, he served as a Fresno County supervisor for eight years.

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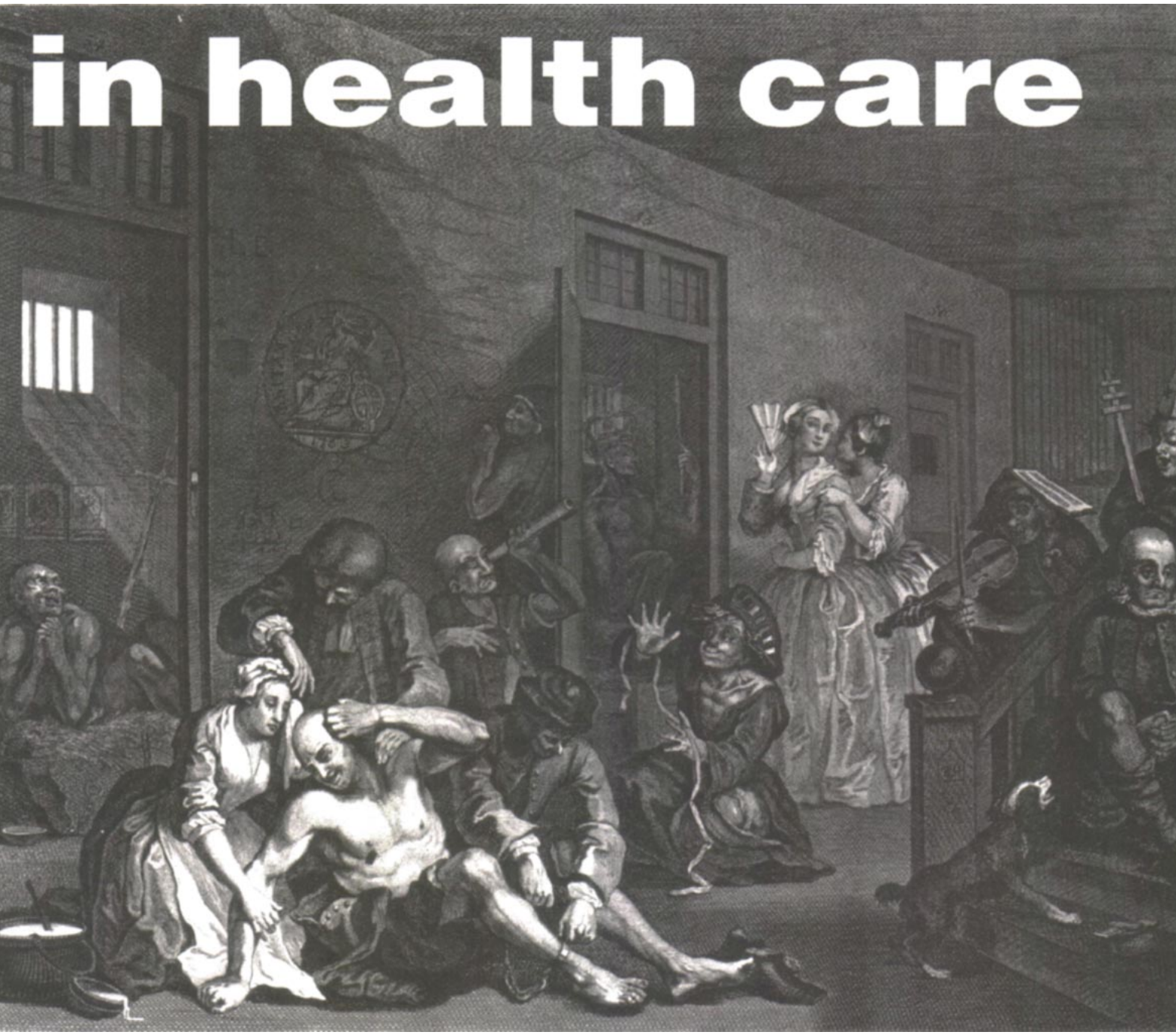

The Rake's Progress: Scene in Bedlam **by William Hogarth, 1735. English (1697-1764), etching and engraving (316 x 387mm). Courtesy of Crocker Art Musem, gift of Malcolm McHenry. (*California Journal* cover, June 1984)**

earth; and the most expensive, wasteful and inequitable overall *system* of any modern country on earth.

This downside has framed the debate over the future of health care for many years. Some 40 million Americans — 6.5 million in California — find themselves without basic health insurance. These are not destitute people but working Americans whose employers cannot or will not afford health care coverage for employees. It is a vicious cycle for employers. As fewer workers are insured, the cost of protecting those who are insured is spread among fewer people, thus increasing the cost of insurance, thus forcing more and more employers onto the "can't afford it" side, thus reducing the number of those contributing to the pool of insured. And on and on.

With virtually no external or internal cost controls in the "deregulated," fee-for service system, the net result has been massive overabundance of everything for the "first tier" of those who are insured, yet, at the same time, the development of a huge "second tier" of overused emergency rooms and undercapitalized, underequipped and easily forgotten "safety net" county hospitals.

After years of failed attempts by various state legislatures to tackle the system and overcome special-interest insurers, providers and the business community, coupled with the total neglect of the issue by the federal government, Arkansas Governor Bill Clinton ran for president in 1992, successfully using health-care reform as an important campaign issue. As president, Clinton believed not only that the system needed major comprehensive change, but that such reforms would remain a popular issue and crowning achievement of his

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administration. Along the way, he engaged both Congress and the American public in a public health care debate never seen before in this country. The plan he pushed ultimately boiled down to institutionalizing on the national scale certain existing, but until then limited, forces already at work in the market place: collective purchasing and managed care.

The term "managed care" really refers to two elements. First, it represents a change in the way consumers pay and medical providers are reimbursed, from a fee for each service method to a fixed total amount per person (per-capita) for a set period of time, such as one year. In other words, instead of a payment occuring each time a service such as surgery is given, the consumer pays a fixed amount per year and the provider has a fixed amount — or "budget" — for the year. This is called "capitation." Second, instead of providers operating as solo practitioners, they are part of a comprehensive system of providers in order for the overall use of services to be managed. This results in greater efficiency from the system and greater effectiveness for the patient. Thus, a capitated, single budget is managed by a system of care providers — managed care.

Managed care had, by this time, a long and significant history, especially in California with organizations like Kaiser. Collective purchasing was a more recent phenomeon, brought to the fore during the 1980s by the Public Employee Retirement System (PERS) (see story, page 29). PERS collectively purchased health care for a million lives from health-maintenance organizations (HMOs) such as Kaiser, resulting in significantly lower rates and increased employee satisfaction.

Although examples like PERS were successful and the popular interest genuine and deep, Clinton's efforts ran up against clout-heavy special interests that benefited from the status quo. They were able to confuse, oppose and poison the issue at the federal level, just as they had done in state legislatures for years. In addition, the president did not end up with a proposal that was easy to explain, understand or implement. And no one wanted to pay for the uninsured. Lastly, he did not appreciate the profound lack of understanding of this complex and ignored issue in Congress, nor the willingness of Republicans to use the president's defeat and Congress' failures for their own partisan electoral benefit. As a result, Congress failed to produce *any* reform. Although the problems remain, the opportunity for the federal government to enact a comprehensive public policy reform has elapsed.

Some aspects of reform, however, are not only still alive but are rapidly moving forward. The administration's proposal did not answer every question about health care, but it did create a framework for a system that would reduce costs, expand access, and maintain quality. Ironically, the simple fact that the president *proposed* health reform based on managed care and col-

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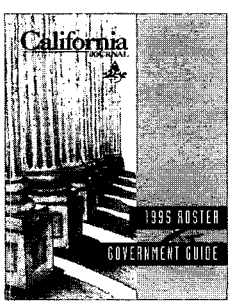

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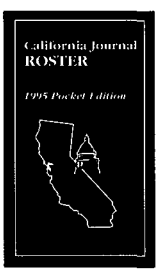

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lective purchasing is responsible for accelerating those trends in the marketplace — even though Clinton's effort went down in flames. Thus, even though the federal effort ground to a halt, local efforts have grown. Today, the managed-care train has left the station, and the concept is taking over the health care industry. Collective purchasing, in one form or another, will not be far behind.

This, then, is likely to happen in California:

• Currently, about 60 percent of health care in California is delivered through managed care (as opposed to fee-for-service insurance). Within three years, that percentage will grow to 80 percent.

• With this in mind, medical "delivery systems" — everything from neighborhood clinics to hub hospitals to doctors' clinics to magnetic resonance imaging facilities — will be integrated. Individual fee-for-service worked for the medical providers as individual entities, but to make a single fixed amount of financing work as a "budget," the pieces must be organized, consolidated and managed as a system. In every community in California, the churning is under way for physicians, hospitals and clinics to develop those systems. Of particular importance is the establishment of "primary care networks" as the critical front end of a physician/hospital organization.

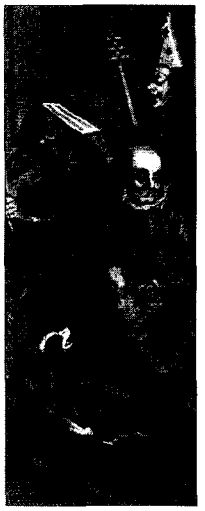
Under the old system, the incentive was for more hospitalizations, operations and other specialty care because that is what was rewarded most in fee-for-service reimbursement. But under managed care, these expensive items must be minimized. "Primary care," or family medicine, with its emphasis on early intervention, is less expensive, and thus necessary for any *system* to survive economically. In most areas, there is a significant over-supply of physician-specialists, and an equally significant under-supply of primary care doctors necessary to make a managed care system work. Thus, managed care brings with it a powerful trend to reduce hospital beds and specialty services and expand primary care in doctors' offices and clinics.

• When the dust settles, local communities will probably end up with five or six big HMO insurance plans and three to five large, integrated provider systems. The public will be able to choose among them for medical services and care. The entire issue of "choice" will change from the current system, where an employer or union chooses for employees, to a system where individual employees choose from among competing *systems* and from among physicians within systems. Although this will initially involve disruption and change for some, it will represent a significant and powerful increase of real choice for the consumer.

• Health-care purchasing will continue to become more and more integrated and powerful. More public entities will follow PERS' lead and bargain on behalf of all their employees in most cases. Bargaining on the HMO side will be just to get on the "menu" of choices for that bloc of consumers. Businesses will form alliances to do the same, such as the Pacific Business Group on Health. In various areas, especially as a result of pilot projects, the private and public sectors will voluntarily combine their purchasing ability to further increase their strength and control over costs and benefits.

• As purchasing power is strengthened, insurers and those who provide integrated delivery systems will have to be accountable to purchasers and to the public on such matters as rates, ease of access, geographic proximity, customer friendliness and, eventually, health outcomes that can be quantified.

• As integrated delivery systems and collective purchasing solidifies, there will be an explosion of information. Information, in fact, will become the most important new tool for buyers of health care. Delivery systems will have to have detailed and sophisticated information about patients, costs, outcomes, and productivity, to correctly manage all the pieces effectively. Purchasers will be supplied with specific information, especially about customer satisfaction and health outcomes. Public officials, too, will need accurate information on population health in a very specific way to orient the system to achieve overall health improvement. As all this happens, it will represent a major shift of control of the system from insurance carriers and providers to purchasers and the public.



• Medical schools will undergo their own challenges. It has already begun, as market forces and legislative prompting has led to an increase in the number of primary care physicians being trained in relation to specialists. Federal funding for graduate education will have to modify to be consistent with this change. Medical schools also

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face change as providers, in that most operate significant hospital and clinic activities and depend on clinical revenues to survive. Medical schools will have to develop their own integrated delivery systems, emphasizing primary care in a managed-care format. An important vulnerability in this shift will be research. Many medical schools provide critical biomedical research that is not — and should not be — responsive to short-term market pressures.

• The traditional role of the counties — who provide the second-tier safety net — will perhaps be impacted the most. Counties now operate hospitals that serve as the "last resort" provider for those with no other source of medical care. Not surprisingly, care for the poor is concentrated at county hospitals, but this kind of concentration, away from the first tier of medicine, allows virtually everyone to forget about the poor — not just private providers but political bodies and the general public as well.

County hospitals are bravely managed against difficult odds and often employ talented and dedicated physicians and nurses. Included in this group are the faculties at various university medical schools. The hospitals themselves, however, tend to be ancient and are in constant violation of various building and safety codes. They are underequipped, understaffed and all too often on the bottom of the political priority totem pole.

The Medicaid system (Medi-Cal in California), established in the mid-1960s, was supposed to mitigate against this alarming circumstance by providing the equivalent of a voucher — a government insurance card — that would "mainstream" the poor into private hospitals and doctors. But the government doesn't pay very well. Its fee-for-service Medicaid reimbursement, for example, is well below the private rate, and private providers just said "no." Medicaid notwithstanding, the poor still found themselves in county hospitals, and county hospitals still found themselves in the same worsening situation. Not that this two-tiered system is a good idea, but poor people had no choice.

The world, however, has changed profoundly since the advent of Medicaid. With increased managed care as well as greater general use of outpatient services, California has found itself with an astounding oversupply of 37,200 staffed hospital beds. That puts the average *available* bed occupancy rate in California at 54.2 percent. In other words, our hospitals are nearly half empty, and the situation is becoming worse in many areas. The occupancy rate at county hospitals is dropping even faster. For counties, managed care as applied to the Medicaid (Medi-Cal) program will be even more problematic.

The state currently is establishing managed care Medi-Cal "projects" in a dozen counties, scheduled to begin in June 1996. This conversion from fee-for-service to capitation in Medi-Cal will entice many low-occupancy private hospitals/physician systems to accept the Medi-Cal population because this clientele can become economically viable if managed properly, and especially if visits to emergency rooms are replaced with visits to doctors' offices and clinics. The Medi-Cal recipient, when given the choice, will choose the same hospitals as the rest of us — private ones — and many county hospitals could become nearly empty. Managed care Medi-Cal choice, coupled with a huge surplus of beds in the private sector, could do what the original Medicaid plan failed to do — mainstream the poor into private medicine.

In other words, the dynamics of reform are hitting both private and public providers, causing their systems to inescapably impact each other. A transition will undoubtedly occur, moving away from the inefficient separate but unequal worlds to more collaborative roles for each within a single system.

In this transition, indigent and specialty care such as trauma and burn units, as well as medical education,

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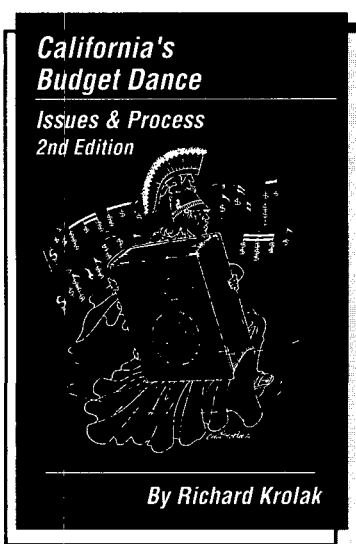

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mental health and others, are very real concerns and must be satisfactorily addressed, and they can be with a little leadership and collaboration. It is already happening in different parts of the country and the state. Most counties today contract for indigent care with private providers. Furthermore, indigent targeted dollars could be used far more creatively and effectively if combined into the managed care pot. The dollars then could follow the patient into systems — instead of into emergency rooms — where both the patient and the taxpayer could benefit from a more sound utilization of primary care, early intervention and prevention.

• Finally, the successful models of PERS, the Pacific Business Group on Health, Kaiser and others in managed care has accelerated those trends nationally. As local entities integrate several strategies in a comprehensive, geographic package, they will create models that will serve as the reform to watch.

For this to happen, the various components will have to understand that their roles have changed. The federal government may not take the lead when it comes to reform, but it can assist local reform efforts. This will involve flexibility, rule waivers, information, technical assistance and planning grants. The state likewise may not so much do reform as assist it. California can offer a myriad of carrots, sticks, flexibility, and planning assistance to assist reform on a local level. The managed care Medi-Cal project itself, with all of its difficulty, still represents a huge force for change and leadership. The Wilson and Clinton administrations seem genuinely interested in reform models, as do a number of local communities. This interest, combined with greater involvement from various foundations, represents an environment where exciting models can and will develop.

Ultimately, models will emerge in those specific geographic areas where they can more easily succeed. Along the lines of the model created by the Birch and Davis firm in Washington, D.C., they will combine collective purchasing on behalf of a significant percentage of the population with restructured integrated delivery systems that include the poor. Special and expensive services such as trauma will be treated like utilities and jointly owned and managed by the entire provider community. The local county government will provide true community leadership by helping to bring this about, but also by reflecting socially important values, public health promotion and objective evaluation. Medical education will be oriented to what the community population actually needs.

Such a local level reform model would not require a single law to be passed by either the federal or state government, but it would require their administrative assistance. Moreover, it would require the key players to abandon their traditional mistrust and separation and, instead, cooperate.

This will not be easy, but it would result in a community that has lower health care costs, has more meaningful choice, realizes vastly improved access, and sees its overall health outcomes improve. It also will be a community that will be watched and emulated all over the country.

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kim belshe

Photos by Rich Pedroncelli

S. Kimberly Belshe has earned a name for herself among the tennis players in the legislative league. She plays in the annual Sacramento tournament organized by Senator Ken Maddy (R-Fresno), and she likes to joke that her competitive nature has earned her a couple of enemies on the other side of the net. "Some would say that I'm relentless," she jokes, describing her game. "But I like 'focused.'"

It might be said that Belshe's demeanor on the court carries into her professional life as well. As the director of the California Department of Health Services, she is one of the rising stars of the Wilson administration. She's had five years to settle into her job, where she handles 5000 employees and a budget of $19 billion. The department is in charge of Medi-Cal and over 150 other public-health programs, including HIV/AIDS prevention and education, children's health services, family planning and tobacco education. The department is also responsible for the licensing and certification of more than 5300 health-care facilities.

Belshe says she's quite comfortable right where she is. She has few true critics and a solid network of bipartisan support. She rubs elbows with some of the biggest political names in Sacramento — a Wilson appointee, she now plays tennis with Maddy, and counts Assemblyman Phil Isenberg (D-Sacramento) and former Assemblyman Burt Margolin (D-Los Angeles) among her supporters. And, perhaps most amazing of all, Belshe has accomplished all of this at age 35 — far younger than most of the other state department heads. How is it possible?

A fifth-generation San Franciscan, Belshe has an undergraduate degree from Harvard and a graduate degree from Princeton. She initially chose schools on the East Coast to get a taste of life outside of California, she says, and that's when her life began to take shape. "I didn't know what I wanted to do after college," she says. "I thought I would go to law school and work on Capitol Hill while waiting to get in. I got interested in policy there, and eventually decided to go to policy school instead." Belshe decided she wanted to work in the San Francisco office of then-Senator Pete Wilson, and she interviewed with Bob White. But White had other plans for Belshe — he sent her to work in Wilson's Washington office instead. From 1989 to 1991, she worked there as a policy aide.

In 1991, Wilson ran for governor of California. Belshe remembers the Washington response to his campaign: "There was this typical congressional mentality where people would ask me, 'Why would your boss want to leave the august halls of Capitol Hill to become "just" a governor?' And I'd say, 'Why would anyone want to leave the largest state in the union to become just one of a hundred lawmakers in Washington?' Even then, I really felt that the opportunity is greater at the state level."

Perhaps Belshe's attitude was noticed by the newly elected governor. When Wilson went back to California, he took Belshe with him, making her the deputy secretary for program and fiscal affairs in the Health and Welfare Agency. When he appointed her as department director in 1993, it came as a surprise to no one. "I have 13 departments under me, and she's one of the 13," says Sandra Smoley, secretary of Health and Welfare, who works with Belshe on a daily basis and has nothing but glowing praise for the young department head. "She has a huge job for someone her age, but she is very competent. She's good on

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She has no background in medicine, once worked to defeat the anti-tobacco initiative Proposition 99 and heads the Department of Health Services at age 35. So why is everyone singing her praises?

By Kirsten Mangold

policy development, she thinks things through and she writes wonderful reports."

Smoley also is quick to offer up a list of areas where Belshe particularly shines: the AIDS arena, Proposition 99 tobacco issues, health-care reform, teen pregnancy. What about challenges Belshe will face in the near future? "I would say the block grant issue on health care reform is major because California stands to really win, or really lose," Smoley says. "[Belshe's] biggest challenge will be defending California, to make sure the formula they use for allocating block grant money to the state is fair. Right now we've been doing a good job of managing Medi-Cal, but if the current formula is kept, we could lose out."

Does Smoley think Belshe can do it? There's no hesitation in her response: "Oh, yes."

Still, Belshe has not been without her critics. Some said Wilson's choice was inappropriate — even Smoley is a registered nurse, but Belshe's background is in bureaucracy, not medicine. Anti-smoking lobbyists were quick to hold up one particular tidbit from her past as "proof positive" that she had a hidden agenda — in 1988, Belshe worked on the campaign to oppose Proposition 99, the landmark initiative to increase cigarette taxes for health programs. Belshe insisted that her involvement was limited to a three-month post-graduate employment with a Southern California public relations firm that happened to be working on the campaign. She herself is a non-smoker, and she's worked extra hard since her appointment to prove that she really is opposed to smoking.

"Today it's a non-issue. Those who questioned my commitment to the fight against tobacco, if they are reasonable and fair, have judged my record since [I've been in] positions of authority," she says. "I had a strong record back then, and I have one now." She points to her support of anti-smoking bills by Assemblywoman Barbara Friedman (D-Los Angeles), former Assemblyman Terry Friedman (D-North Hollywood) and others. "Now I enjoy receiving fan mail from my former critics. You've got to work with everyone without regard to their perspective.

"I want to point out that my Prop. 99 opposition was limited to a narrow, albeit very vocal, group," she adds. "They were the *only* people who were opposed. But reading the newspapers, you wouldn't know there was another side to the story. No one spoke in opposition at my Senate confirmation hearing. I had appropriate responses to my critics. I haven't heard a word about it since."

Today, that group — Berkeley-based Americans for Nonsmokers' Rights — is indeed paying less attention to Belshe. "I'm really not as intimate with what Kim's been doing since she was appointed," admits ANR executive director Julia Carol. That doesn't mean, however, that Carol is sending fan mail. "[Belshe's] boss has been abysmal on tobacco issues, and she works for him. Even if we had the best possible person in office, I'm not sure how much good they could do on the smoking issue."

Belshe dismisses her critics and says she would rather focus on her successes while in office. She says that she's especially proud of the Wilson administration's efforts to change the structure of programs such as Medi-Cal, "not just for the good of the beneficiary, but for the taxpayer as well." She is pleased, she said, to see health care move in the direction of managed care. Also on her list of successes are other programs such as Healthy Start, the school breakfast program for underprivileged school children. This program, she says, is a good example of how low-cost reform is possible. "Fiscal austerity compels policymakers to look at doing it without spending more money," she says. "I take pride, as does the governor, in moving [these programs] forward."

Belshe also is a steadfast defender of Wilson's record as a supporter of preventative health programs. "It's trite but true ... an ounce of prevention is worth a pound of cure. People were so taken aback to hear a Republican candidate for governor talking about prevention back in '91, and to the governor's credit, he has built on that. The characterization is that he's let the prevention program fall by the wayside, but I say that's not an accurate characterization. He doesn't get credit for the programs he's proposed since 1991. The number of women giving births without any type of medical insurance has dropped from 7.21 percent of all births in 1989, to 3.02 percent of all births in 1993. The Legislature and the governor have worked together to pass laws to make it easier for those women to become eligible for Medi-Cal. It's one of a number of reforms."

She also mentions programs like AIM, which offers universal access to prenatal care, and the battered women's program, which she says should get far more credit for being successful than it's actually received.

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"Could we be doing more? We could always be doing more," she says. "But the governor's ability has been limited by fiscal circumstances. It's to his credit that we've been able to carve out the money we have for these programs."

It may sound like Belshe is a rabid Pete Wilson supporter — and indeed she is a grateful nominee. But is she really acting at the governor's beck and call, or is that just a media persona that switches on when she's in the spotlight?

"Get out of here," responds Assemblyman Phil Isenberg (D-Sacramento). "I might have complaints about her governor, but not about her. We've dealt with her extensively on health-care issues, and I've continually been impressed. She is smart, very competent, honorable, and has great access to the governor, which is about all you could ever ask for in a high-ranking department head."

Even those who aren't too sure about Belshe's charge are slow to blame Belshe. "I ... have found some serious problems with the Department of Health Services. They tend to think that despite the fact that everyone else in the bureaucracy is being cut, they ought to grow, and they are smarter than those of us in the Legislature. They think they know how to do it better than we do," complains Senator Ray Haynes (R-Riverside), who is also the vice-chair of Senate Health and Human Services. But, he's quick to add, "... that's not a reflection on Kim; everyone says it's not her fault. She's stuck in the same mire that others before her have been stuck in."

Mary Griffin, a former California Medical Association lobbyist who worked with Belshe when she was with the Health and Welfare Agency, says she remembers Belshe as being a fast learner — bright and accessible. Since Belshe's appointment, Griffin says she has noticed that "you don't hear a lot of negative stuff about the department."

Some would also speculate that Wilson has been more than just a fairy godfather to Belshe — perhaps he is her mentor and role model as well. Following in Wilson's footsteps, could she be grooming for higher office? The answer, at least for now, seems to be "no."

"Now, I have an opportunity to have direct and immediate impact on public health, and I am confident in my ability to meet those challenges," she says. "A lot of work still remains unfinished ... I'm happy where I am."

And the future? Belshe hasn't ruled higher office out, exactly, but it's not penciled onto her calendar either. "I admire greatly people who have the fortitude, stamina and commitment to run for public office," she says, choosing her words carefully. "But, I think there is a genetic predisposition to run. I'm not convinced I have that in me."

Others disagree. Says Isenberg, with a hearty chuckle: "You bet. I think she should switch her party and run for something."

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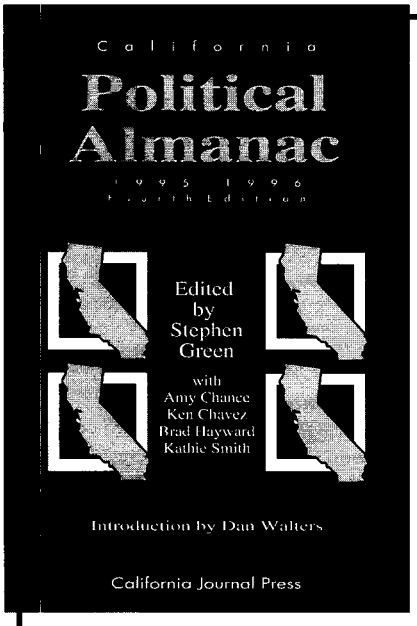

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A pioneer in the collective purchasing of health care moves on, but the world will never be the same.

By John Borland

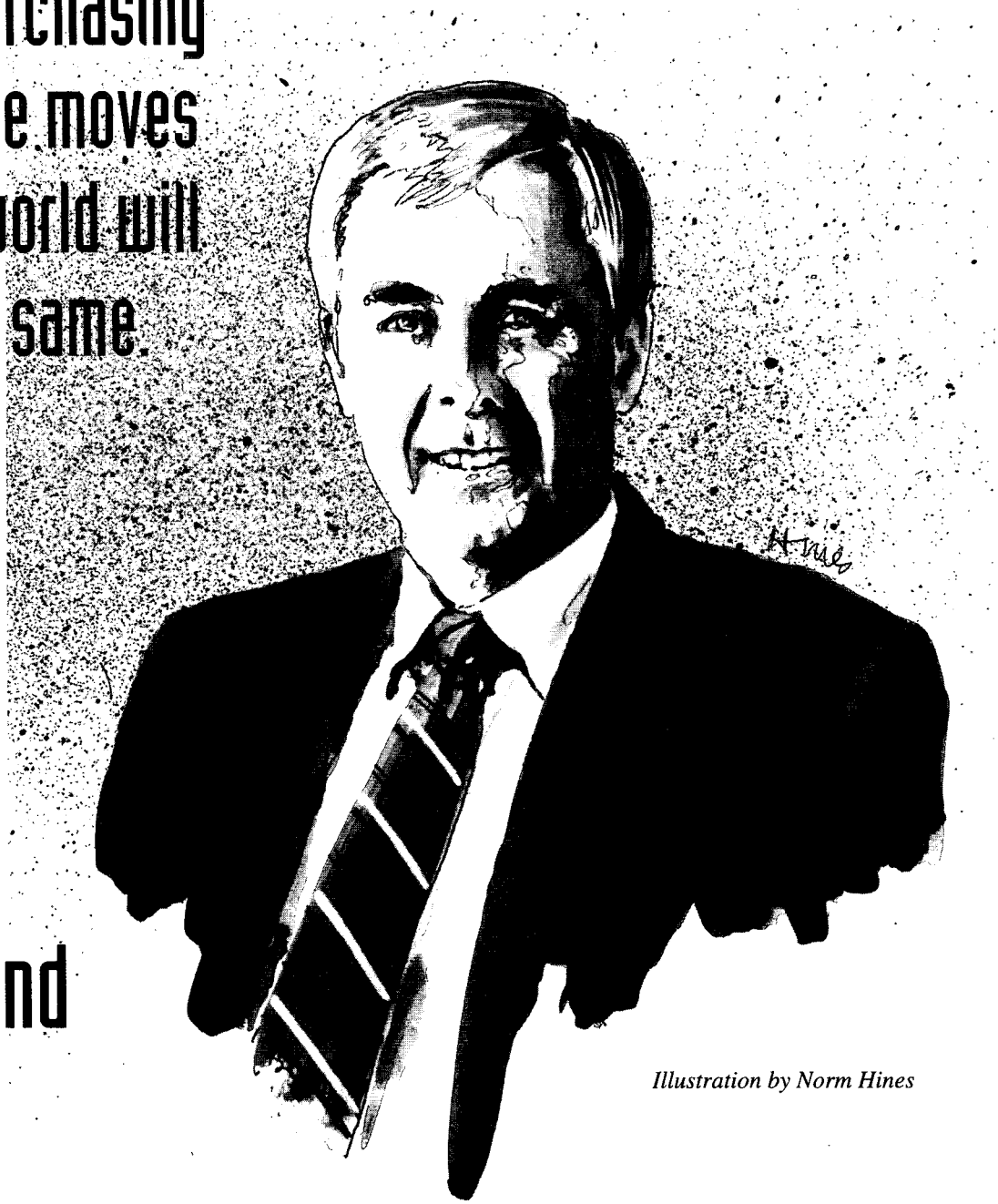

Illustration by Norm Hines

In most versions of the story, when Don Quixote completes his ill-fated charge at the windmills, he winds up defeated in fact, if not in clouded fantasy. The surprising solidity of real life proves to be even more daunting than the would-be knight's dragons. But what if Quixote had been right? What if the doubting Sancho and the smirking world around him had been the ones mired in misperception? What if the dragons really could have been cowed with the point of a lance?

Fast forward a century or two, jump out of the library shelves, and put double-digit inflation and the

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hugely profitable health-care industry in the place of the windmills. In the role of Quixote, cast Tom Elkin, until recently the chief negotiator for the California Public Employees' Retirement System (CalPERS) health benefits division. His task: to knock down the nationwide inflationary trend, taking on some of the largest and seemingly most intractable HMOs and health plan carriers in the country.

Four years after his first charge, the dragons are unexpectedly lying at his feet.

The 53-year-old Elkin has been compared more than once, by dint of his success at the negotiating table, to an 800-pound gorilla. Interviewed in his office a little less than a month before his last days at CalPERS, he is anything but. Relaxed and jovial, dressed in casual work clothes, he tells the story of his efforts to reverse the price increases.

Elkin graduated from the University of California at Santa Barbara, and has spent most of his working life in the public sector. Before coming to CalPERS, he worked for 15 years in the Medi-Cal division of the state Department of Health Services, helping to negotiate cost-containment measures.

In 1991, Elkin was hired by CalPERS as assistant executive officer for Health Benefit Services, in charge of managing the system's health-insurance portfolio. The position was a new one, created in the recognition that there were problems in the way the system passively paid for its health care. The national average for health-care inflation at that time was running between 10 percent and 16 percent per year. And that year, California was facing a financial shortfall of close to $14 billion dollars. Part of the Legislature's response was to pass more of the cost of state-paid health-care plans along to employees.

This was the near-crisis Elkin faced. His office was not held in high regard, he remembers. "It was apparent to me that the program was not properly staffed ... I had some teaching and influencing to do inside." CalPERS was famous for throwing its weight as a huge institutional investors around corporate boardrooms, but this power had never been used on the health-care side.

His first task was to ask for detailed information on the cost and performance of the 22 plans contracting with PERS. "I looked around to find out what I had available to use in negotiations and realized, gee, there's no information. I'm not going to sit across from some high-paid slick corporate type and expect him to lower his premiums." The plans were not all forthcoming. He received three distinct answers, he says. Some said they had the information but they weren't going to give it up. Some said they had it but they couldn't trust PERS with it. Others said they didn't have it at all. "That was novel," Elkin says. "These were mature managed-care companies, and I thought to myself, how can they manage care if they don't have this information?"

But eventually Elkin got what he wanted— what he calls the "first gentle use of our market position,"— and started the real task of trying to knock down premiums. The average nationwide rate increase that year was close to 15 percent. Elkin wrote a letter to each of the plans asking for help, pleading poverty. He asked for a zero percent increase.

He received five responses almost immediately: three agreeing to no increase, and two actually offering decreases.

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"I'll always remember that," he says gleefully, "because I thought, wow ... this is going to be fun." The rest were not nearly so easy, but eventually Elkin had persuaded 20 of the 22 plans to limit their premium increases to a surprising average of only to 3 percent.

There were still two holdouts: Kaiser North and Kaiser South, the two largest plans in the CalPERS portfolio, held firm with increases of close to 10 percent apiece. "When Elkin came to PERS ... he made demands on carriers that were unusual," says Russell Lawrence, the Kaiser North representative that handles CalPERS accounts. "It was a unique problem for us." Kaiser uses a "community rating" pricing system, he explains, under which all customers receive the same price, no matter the size of the group. This left no negotiating room. "If the rate came down for PERS, it came down for everyone," Lawrence says. "We felt ethically, morally, and societally responsible to keep it that way."

Thus was born the first great conflict in Elkin's CalPERS career, which has since inspired group purchasers around the country. "I was in the position that I had to say I don't care [about the community rating system]" Elkin remembers. "It was a classic impasse ... things got pretty tense." Eventually Elkin and the CalPERS board decide to freeze out the two Kaisers for a year, refusing to allow any CalPERS members to join the plans. "If we hadn't taken some sanctions the whole process would have been a bit of a mockery," Elkin says. He laughs at the memory, still a little nervously. "I feel good about it now, but at the time it wasn't all that fun."

"We were a little bit miffed, you could say," Lawrence says with obvious understatement. As one of CalPERS's lowest price plans for years, he explains, Kaiser had saved the group a considerable amount of money. "After years and years of being the good guy ... we were internally quite frustrated."

The move was unprecedented in CalPERS history, at least in the health-care arena. But it established that Elkin was serious. "The first year was really the bellwether event," Elkin said. "We are now equal partners at the negotiating table...We now have as much clout...as the suppliers, as the carriers, and rightly so. But it took a few years."

Elkin's next project was to figure out how to simplify the maze of different benefit packages offered by different plans. Today he pulls out a chart from the pre-1993 years and unfolds it as a demonstration of what consumers faced. "There's 1160 cells of data in this chart," he says. "The idea is the family gathers around the kitchen table before prime time and opens this chart ... and very quickly figures out what plan best fits their needs." He shakes his head in disbelief. "You've got to be kidding ... There's no way in the world that the average consumer could make sense out of this."

What resulted, after another round of tense meetings, was a single package of identical benefits offered by each health plan. "We eliminated the swiss cheese," Elkin says, explaining that some plans weren't covering items like blood products or oxygen, details no consumer would have noted until needed. "We said, hey, cover oxygen for Christ's sake. You don't need a medical degree for that."

With this standard package, PERS members were then able to simply compare prices and choose the cheapest plan. But Elkin still wanted more. He told the plans that he wanted a third-party evaluation of the quality of care under each of them. That sounded acceptable, and a coalition of HMOs, purchasers, and providers set up a review. Then Elkin said he wanted to publish the information in a simple, readable form, so consumers could compare the results. Some of the plans turned incredulous. At one of the speeches, stocked with PhD's, he says, he explained his vision of "little consumer circles," half-filled or filled to represent levels of quality. "I could see from some of the expressions on some of these folks that were listening, like 'Who in the hell is this guy? Where does he come from, he doesn't have a clue.'"

I could see from some of the expressions on some of these folks that were listening, like 'Who in the hell is this guy? Where does he come from, he doesn't have a clue.'

But once again, the plans came around, and earlier this year CalPERS sent all of its members an independent rating of all its health plans across a number of different basic areas of care.

Running in tandem with Elkin's pressure for more and more information were his continuing demands for premium reductions. He succeeded beyond anybody's expectations, winning for CalPERS' 1000 public sector employers a small reduction in premiums in 1994 and an astonishing 5.2 percent average HMO premium reduction for the upcoming year.

Elkin's success in reducing costs, in a time when the nation was in an uproar about a health-care crisis, naturally brought him to the attention of the Clinton health-care team. In 1993, the administration flew him out with a group of other purchasers to meet with Hillary Clinton. Clinton never actually showed up, he says, but he did have the opportunity to videotape his testimony in front of aides. "It seemed like we were all going though our stories, but I got the sense that no one was listening," he jokes. "I leaned over to my colleagues and said, 'I don't know if you've noticed, but there's no film in that camera.'"

The Clinton plan's version of managed competition and purchasing groups did wind up integrating the PERS model almost without change — with one problem. "That was one of the major ironies," says Alain Enthoven, a professor of management at Stanford University and an influential managed competition theorist. "The Clinton bill would have abolished the PERS plan." Elkin and PERS ended up opposing the plan, "but by then everything was coming apart, and we didn't have to do a frontal assault," Elkin says.

Elkin left CalPERS on July 1st to pursue a private consulting career. "We couldn't arrange another position or justify increasing his salary as much as we wanted to," says William Crist, president of the CalPERS board of administration. "Plus, he really had the desire to attempt to do something on his own."

In mid-June Elkin wasn't sure what he was going to do, though he expected to continue advising people on health-care purchasing. Even carriers seem to want his advice, he says, as they try to figure out what purchasers expect. But as to the near future: "I'll just hang my shingle out," he says. "Will work for food."

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Brave new

Will genetic research create a new field of discrimination?

By Mary Beth Barber

It is the stuff of science fiction. It is also the stuff that gives resonance to the law of unintended consequences. It is genetic research, and it has evolved beyond the point where scientists use laboratory hocus-pocus to create a tastier tomato. Now, they are able to delve into a person's genetic code — his or her DNA — to determine who will contract diseases and who will remain healthy. Genetic testing may determine a fetus' fate before the baby is even born.

But what appears on the surface to be a giant leap forward in the world of health care has medical ethicists worried, for as O.J. Simpson and his defense team discovered, doctors aren't the only end-users of DNA testing. Nor is law enforcement. While research uncovers more genetic information every day, insurance companies, health-maintenance organizations (HMOs) and businesses also may like to know if a particular individual is susceptible to, say, breast cancer or heart disease; or if an unborn fetus has a significant birth defect. And that has some lawmakers concerned that a whole new world of genetic discrimination is about to unfold. They fear a new eugenics trend — that employers and insurance companies will be biased against people because of their genes and the possibility of disease, even though there are no apparent symptoms. It's social Darwinism at its worst, they say, based solely upon the tiny strands of DNA in our bodies.

"There is something new every day," said state Senator Patrick Johnston (D-Stockton), the author of several bills designed to head off this kind of discrimination. "The expansion of science now into genetics means that, increasingly, a blood test will be able to yield information on a person's possibility to get to a wide range of diseases."

Many of the advances may be traced to one main program — the Human Genome Project (HGP), which started in 1990. Universities and medical centers are using federal funding — close to $3 billion — to map out our genetic code for medical and legal reasons. Doctors then may tap the information to determine which patients are carriers of diseases, whether babies and fetuses have any significant birth defects, and whether patients have a good chance of getting a disease in the future. The legal field uses DNA profiling for evidence, as in the Simpson murder trial.

Originally intended to last five years, experts predict that the HGP won't be wrapped up until 2005, and only parts of DNA will be identified. But doctors, medical ethicists and legislators like Johnston want to protect the rights of patients now and create new discrimination laws for insurance companies and employers.

"It's is quite clear that in our socio-economic framework that people will take that information and use it for business purposes," said Dr. Paul Billings, the head of the genetics division at the California Pacific Medical Center at Stanford University and one of the outspoken voices for significant regulation in the field. He fears that insurance companies could deny coverage to individuals who

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Mary Beth Barber is a freelance journalist from Sacramento and a former associate editor of California Journal.

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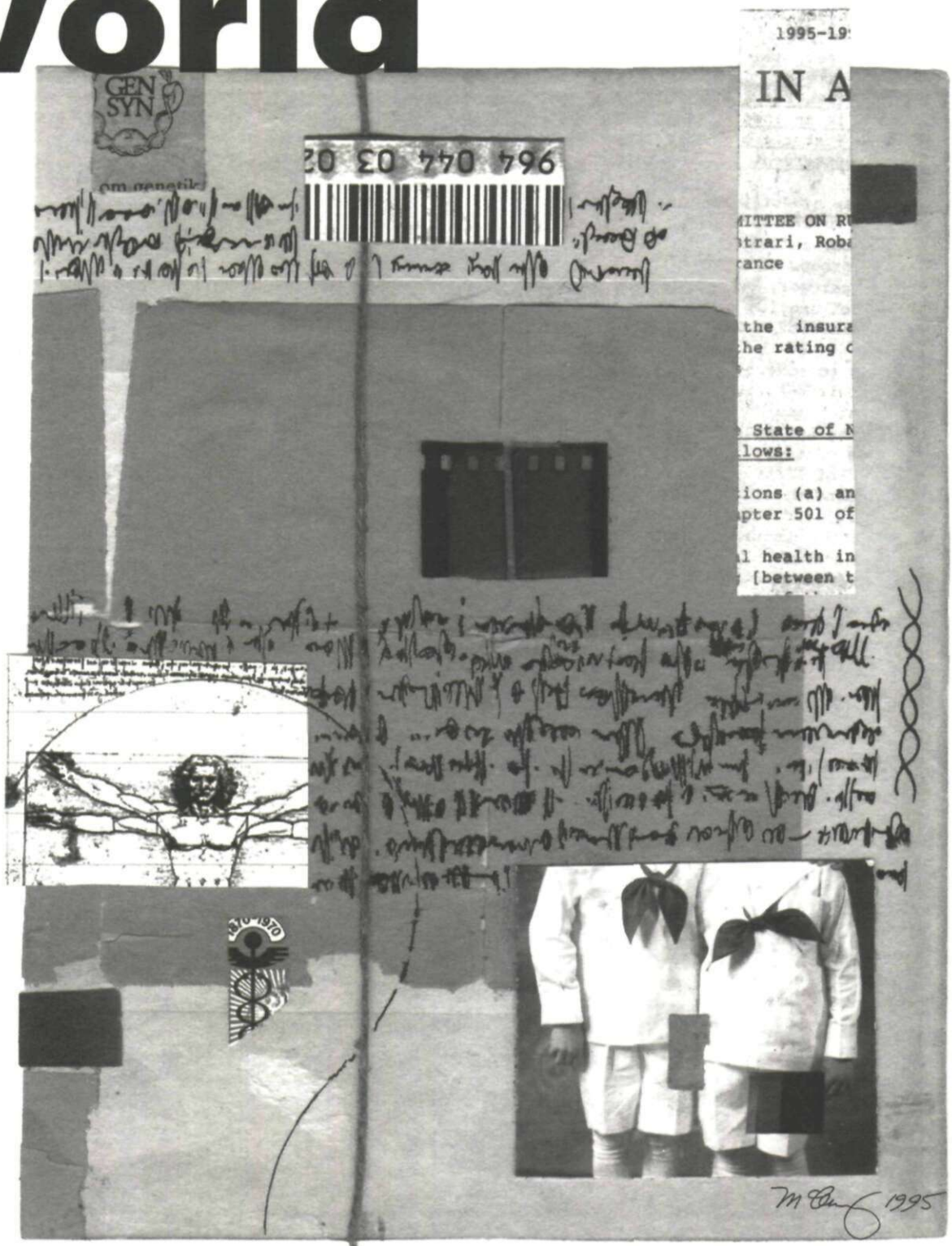

Collage by Meg McAneny

have a genetic predisposition to certain disorders, and that employers would "cherry-pick" among potential employees because of their genetic code. Testing is becoming less and less expensive every day; one type of test that cost $2000 in 1991 is now less than $800. The lower the price goes, the more common these tests will become, said Billings.

California has already made it illegal for insurance companies to deny or alter coverage based on genetic testing. Johnston authored a bill in 1994, SB 1146, that went into effect in January. Federal law is expected sometime soon as well, said Danielle Walters of the California Medical Association. She believes that eventually there will be federal policy forbidding discrimination by insurance companies for pre-existing conditions, including those apparent through genetic testing. "Back in Washington, it's one of the few things people have been able to agree on," Walters said. Allowing insurance companies to

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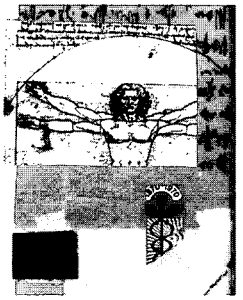
use genetic testing is risky and biased. "We believe that [genetic testing] could be used as a tool to *avoid* risk rather than *spread* risk," she said of insurance companies. "I'm sorry, but that's what they're in the business for, to assume risk."



This year, Johnston is back with another bill — SB 970 — that would make it illegal for businesses to deny employment or benefits based on genetic testing. While the insurance-discrimination bill made it through the Legislature with soft grumblings, employer groups are loudly complaining about the employer-discrimination bill.

Julie Broyles, the director of insurance and employee relations for the California Chamber of Commerce, thinks that Johnston is pre-empting the nationwide gene study. Employers feel under attack, even though there is no hard evidence of gene discrimination. "Quite frankly, I have not heard of a single employer who has used genetic markers for employment purposes," she said. "You're talking about a major fine on employers that's pretty difficult to prove." California businesses already have a tough time with liability issues and legal fees, and Broyles pointed out that employers really only use medical exams to see if employees "are on drugs or if they can lift the weight they say they can." Businesses don't want specific medical information. "We just want 'passes and fails' from the doctors, because of the liability," she said.

Other employers see genetic information as benefiting employees and the general public when it comes to safety. "The workplace can be an inherently dangerous place to work," said Martha Alcott of the California Manufacturers Association. "If an employee is going to be operating a crane or an airplane or something, shouldn't the employer know if the person has a tendency toward epilepsy? This bill would seem to make it unlawful to ask the question." The association is willing to discuss the bill, but currently stands opposed. "The term 'genetic characteristic' is pretty broad. That may be part of the problem," Alcott said.

Legal experts are experiencing the same dilemmas over definitions in current anti-discrimination laws. California's fair employment and housing laws should address the issue, but genetic mapping wasn't around when the the legislation was written. Whether it applies to genetics and employment is up to interpretation by the courts. Legal experts in the state capitol think that employees would win a genetic-discrimination case in the courtroom, but the number of applicable cases can be counted on one hand. Johnston would like to prevent heavy litigation through legislation. "I think it's better to have clear public policy enunciated in state law," he said.

There are federal protections for employees under the Americans with Disabilities Act (ADA). The Equal Employment and Opportunity Commission — the commission that enforces the act — announced on March 14th that genetically-tested employees are protected under the law. Peggy Mastroianni, a director in ADA's policy division, explained that it's illegal to use either direct gene-testing or a family history to discriminate against an employee. The announcement is not a new regulation, however — only an interpretation by a federal commission. "It doesn't have the force of law," said Mastroianni, "but courts may give it deference." Judges have the option to use the interpretation, or not.

This legal field is very new, continued Mastroianni. Her office looked into the situation because of numerous inquiries and speculation in the media, not because of actual problems. "I don't know of any cases yet of someone not being able to get employer-based health insurance because of genetic testing." Nor has she heard of any specific employee problems, she said.

But Billings claims that there are real cases of discrimination, both from insurance companies and employers. One California man discovered after his son showed signs of neurofibromatosis — the "elephant man" disorder — that he, too, was a carrier. The family squabbled with their insurance company, and he was denied coverage after a genetic examination. "The healthy children in his family were also uninsurable," said Billings. The family was later able to obtain coverage from an HMO that did not use genetic information for qualification.

Pregnant women and fetuses are targeted by insurance companies for genetic testing, said Billings. He heard that a woman who thought she might carry a disorder called adult polycystic kidney disease was told by her HMO that she and her fetus could be tested — as long as she terminated the pregnancy if the fetus' test was positive. She fought it, and the HMO recanted.

Problems are apparent with employment, too, said Billings. A midwestern man who had a family history of Huntington's disease was requested by a prospective employer to undergo genetic testing prior to hiring. "Such a request may be currently illegal or unfair, but occurs," he said.

These case studies have not come from legal textbooks or police records, however. The situations were settled out of court and often recounted to experts privately. The field is just too new to have a plethora of well-documented cases. Dr. David Witt, the head of Kaiser HMO's Huntington's disease testing center for Northern California, admitted that he has heard of no real-life cases directly, but emphasized that "these things have happened. People relate the situations to me at meetings."

The danger of discrimination in the workplace drives Witt to encourage his patients not to tell employers that they are undergoing testing. Huntington's disease manifests itself in older people, usually over 50, and now their children can be tested to see if they have the gene. "There are some 25-year-olds that will eventually get the disease. But it could be 20 or 30 years before that will happen." In the meantime they can live fulfilling, meaningful lives — and be productive employees. But Witt fears the knowledge could put his patients' jobs on the line. "It's just a precaution, because we really feel [employers] don't need to know." Many patients tell their employers anyway, he said. "It's amazing what people will be open about."

Meanwhile, Johnston is not optimistic about his new bill becoming law, although it made it through the Senate and is pending in the Assembly. The federal ADA opinion reinforces the intent of SB 970, he said, but other factors make the employer-based bill more difficult to move. First, it's a relatively new topic for employer groups. Second, the Republican surge has moved the Legislature to the right, and virtually nothing controversial is moving through the Assembly at all.

But science waits for no political trend, and advances in the field of genetics continue apace. Whether the political tortoise can keep up with this scientific hare is questionable, leaving the fate of testing in the workplace in the hands of ethicists and, ultimately, the courts.

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charles

Illustration by Norm Hines

In a state that's as disaster-prone as California, there are few industries that are as important as insurance. There are earthquakes, seasonal fires, thousands of drivers and homes — millions of policies. All of this is regulated by the 1100 employees of the Department of Insurance. And those 1100 employees were watching closely as the November 1994 election neared and their new boss was chosen by voters.

The campaign itself was ugly, and it produced the kind of commissioner that few political observers thought possible — a Republican. When the office was created by Proposition 103 back in 1988, it was the conventional wisdom of the times that a Republican would have a tough time winning a job that was oriented toward consumers. And in fact, the first elected commissioner, John Garamendi, was a Democrat. But Garamendi ran for governor in 1994, leaving the contest for commissioner without an incumbent in a year marked nationwide and statewide by a Republican tide.

The candidate helped along by these circumstances was a 40-year-old former businessman and assemblyman from Cupertino with movie-star looks, a catchy name, and a well-financed campaign: Charles Quackenbush.

Ten months later, Quackenbush has settled into his Sacramento office and is getting a good idea what his first round of report cards looks like. Although his agenda will be full until he stands for re-election in 1998, it took the first half of 1995 to chew down just one problem facing the department: settling with individual insurance companies for consumer refunds, or "rollbacks," as mandated by Proposition 103. Quackenbush inherited the job of negotiating the rollbacks from Garamendi, who obtained a court order enabling him to demand the consumer rebates just before his term was over. Though Quakenbush managed to settle with 33 companies by the end of June, over 100 more continued to refuse to give rebates. Consumer groups — and Democrats — say those statistics aren't nearly good enough, and even the rebates he did manage to get were for far less than Garamendi would have accepted. For his part, Quackenbush has promised a series of court hearings for the companies that have so far refused to settle; he says he is "confident" that they will respond to the coming court orders and the issue will be resolved. He waves off critics who say he settled for too little, insisting that the numbers Garamendi presented to the public were inflated in the first place.

Garamendi doesn't agree, based on what he's seen so far. "The rebates [my administration] demanded were based on the numbers we had at the time, and he's yet to prove that they were wrong," he says. "Quackenbush certainly has fulfilled his campaign promises to the insurance companies. I'll give him credit for that."

Garamendi, like Quackenbush's other critics, is referring more to a "debt" than a "promise." The

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quackenbush

The insurance commissioner navigates through a sea of criticism

By Kirsten Mangold

reasoning behind the comment: 70 percent of Quackenbush's election campaign was financed by the insurance industry — $2.4 million, including $260,000 that came in after the election.

Quackenbush's 1994 opponent, former Senator Art Torres (D-Los Angeles), says he's not surprised that Quackenbush settled for less. "It's like [former New York governor] Mario Cuomo said, '[He] has finally determined the difference between the prose of governing and the poetry of campaigning.' Chuck fell in love with the idea of getting three million from the companies, not realizing that the debt would be due upon entering office." Torres says he believes Quackenbush will continue to pay off his campaign debt with favors.

Torres also is critical Quackenbush's lack of experience. Unlike Torres, who chaired the Senate's insurance committee, Quackenbush never served on a legislative insurance committee, or was ever otherwise involved in the industry. "The position of insurance commissioner is not on-the-job training," Torres says. "We needed someone who knew the laws and the players. If you go in there as a lamb among the lions, you're going to get eaten up."

"It's not like Quackenbush came into this office well-educated about insurance," complains Jamie Court, operational director for the Southern California-based Proposition 103 Enforcement Project, which is headed by consumer advocate Harvey Rosenfield. "He campaigned on a platform of no crime. That has nothing to do with insurance."

But Quackenbush counters that he's doing just fine, thank you — and that, he says, is proof positive that his past experience is a moot point.

"Frankly, insurance isn't that complicated — there are just some technical terms you need to know," he says, adding that he has found the job to

Photos by Rich Pedroncelli

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be perfectly suited to his background in business. "I spent eight years in the Legislature, in the minority party, and I accomplished everything I could. I wanted to foster a better economic environment, and this office is tailor-made to continue that. Having a little more technical knowledge isn't a priority for this job; you can learn that as you go along."

The industry representatives who have been working with Quackenbush for the past six months agree that he's a diligent student. "Because he's a former legislator, he's had a very fast learning curve," says Bob Gore of the Fremont Pacific Insurance Group. "Having watched a number of statewide officials take office, I think he's grasped the job just about as fast as anyone could."

Quackenbush himself takes offense at the notion of being the darling of the industry, but he doesn't deny that he makes a concerted effort to get along with everyone. "My job is to keep insurance affordable and available as possible, and promote a stable, predictable, regulatory environment," he says. If the department is thought of as a black hole of permitting, [insurance agencies] will leave the state."

It's too bad, Quackenbush says, that consumer groups like the Enforcement Project make it sound as though that makes him pro-industry, as opposed to pro-consumer. "I think you can be both," Quackenbush emphatically says. "I think if you're pro-economy, that helps consumers. In a free market, the customer is king."

Gore is typical of industry representatives in that he believes that the current commissioner is a vast improvement over his predecessor. He says that he thinks Quackenbush's real test is coming in the next year or so, as he tackles issues like earthquake insurance, workers' compensation ratings and automotive insurance issues. In the meantime, he says, "... by and large, I think he understands free enterprise and he's doing fine. I worked with Garamendi for 10 years, and he was impossible to deal with. This is apolitical — it has nothing to do with whether your name ends in 'D' or 'R.' It's just that supporting a healthy, solvent insurance industry has to be the commissioner's first concern."

Jerry Davies of the Personal Insurance Federation points out that the industry does indeed like Quackenbush — but, he says, it's not a matter of paybacks. From the companies' perspective, Garamendi was intolerable, while the new commissioner takes a gentler approach. Davies uses the Proposition 103 rollbacks as an example: "There's no question that Quackenbush is sincere about going after the companies that he feels still need to pay up, and he's going about it properly by going to each company one on one instead of painting by brush over the whole industry. It seemed like every other day [Garamendi] would send out press releases that brushed over the industry as a whole, and the companies were getting edicts at the same time they were reading it in the press."

Even some of the consumer groups have grown to be less doubtful of Quackenbush. Bob Gnaizda of the San Francisco-based Greenlining Institute praises the new commissioner.

"To give just one example, we recently raised a complaint regarding a major insurance company. We sent a letter to Quackenbush on Monday, and on Wednesday the office called and said that he'd meet with us Friday. He also asked the insurance company to meet with us, and he was knowledge-

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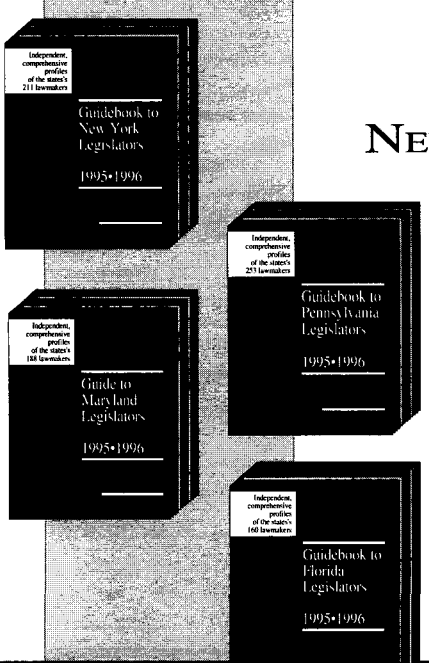
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able about the matter and asked pro-consumer questions. I haven't had any other regulator do that so quickly; often, they wouldn't do it at all. That impressed me." Gnaizda quickly adds that, despite his positive outlook so far, the tests in the coming months will cement his feelings.

"So far, I think there are appealing aspects about him," Gnaizda says. "Whether he can accomplish what he hopes to is another matter, but given the lack of success of his two very talented predecessors, Garamendi and [Roxanni] Gillespie, I'm certainly willing to give him more time."

Harry Snyder, president of the Consumers' Union, agrees that it's probably too early to tell if Quackenbush will be truly effective. "He's ... a work in progress," Snyder notes. "Ask me again [in six months]."

Though most of his time so far has been spent negotiating the Proposition 103 rollbacks, Quakenbush now says he is ready to tackle next "big project." He has already established a task force to deal with the issue of auto insurance affordability and put together a program in which lawyers volunteer to help district attorneys prosecute fraud cases.

He has also had several meetings with members of Congress to discuss the issue of a national catastrophic risk pool — an issue that promises to be the next big headache for the department, as individual insurance companies claim that they're losing too much money in California and threaten to go elsewhere. Currently, 75 percent of companies are refusing to write new homeowners' policies, and are pushing for "delinkage" — permission to sell homeowner insurance without tacking on the required earthquake coverage. Quackenbush says he won't support delinkage — which could be devastating to homeowners in high-risk areas — unless the Legislature passes a bill to require companies to offer both homeowners and earthquake insurance separately. Quackenbush says that his efforts to help create a national disaster protection pool are in addition to — not instead of — dealing with delinking in California.

"I'm hoping there will be a solution in the next couple of years, but in the meantime, I can't sit on my hands," he says.

Quackenbush also has made an effort, to some extent, to mend fences with his enemies. A recent request for the Proposition 103 Enforcement Project to represent the department in court was met with disbelief by Rosenfield and Court. They turned the commissioner down, and still chuckle about it when the subject is brought up. "Yeah, *right*," Rosenfield says.

Court says that although they are wary of Quackenbush's ulterior motives, they'd like to believe that there's an element of sincerity to such offers. "Within the first couple of months, he was slammed for giving away the store so early. Now he seems to have changed his course in certain ways — he's not as publicly or aggressively tending to the companies' business, because he's seen the reaction in the press — but he's still trying to quietly cut deals with the industry. Even [his press releases] appear on Friday afternoons, when they're not readily picked up on by the press. People are noticing these things, and I hope that awareness translates into at least a more thoughtful position on proper regulation of the industry on his part. But you still have to wonder what goes on in his head."

Quackenbush is gracious when he talks about his critics. As far as the Proposition 103 Enforcement Project goes, the commissioner will only flash an enigmatic smile and tread lightly. "Harvey's motivations are his own business," he says. "He was a smart politician in the '80s, and you do tend to respect that. We try to reach out to all these groups; we don't think we have the corner on all the good ideas."

No matter what kind of tomatoes are thrown his way in the coming months, Quackenbush says he's already planning to run for re-election. He says he isn't sure what his political future in the long run will look like. "I'm a firm believer in doing the best job you can, and the future will take care of itself," he says.

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Southern Exposure

PERSPECTIVE

By Sherry Bebitch Jeffe

The demise of Berman-Waxman

Michael Feuer, a little-known attorney, recently won election to succeed Zev Yaroslavsky as the city councilmember from Los Angeles' 5th District. Feuer thoroughly trounced his better known and better financed opponent, Barbara Yaroslavsky, who was running to succeed her husband, who had been elected to the Los Angeles County Board of Supervisors.

Had that seat, which encompasses the city's Westside and San Fernando Valley communities, been open four years ago, chances are Feuer might not have even run — that is, unless he had secured the endorsement of a group of liberal Democrats headed by Congressmen Howard Berman (D-Panorama City) and Henry Waxman (D-Los Angeles). For more than two decades, the Berman-Waxman organization — or machine, to its detractors — ran the Westside of Los Angeles as a closed political shop, selecting and electing like-minded candidates for state and local offices.

There was a time when a Berman-Waxman endorsement of one candidate in a race made others decide *not* to run. As one insider put it, "We cleared fields." But the Westside alliance which 22 years ago helped elect Tom Bradley as Los Angeles' first African-American mayor has been absent from city politics recently. And it's largely shunned statewide and legislative elections.

What happened? Has the demise of Berman-Waxman made any difference on the California political scene? As the state careens into a new era of term-limited politics, are there any lessons to be learned from the rise and fall of the once-potent conglomerate?

Back in 1980, Berman, then a member of the Assembly, had been engaged in a two-year struggle with then-Speaker Leo McCarthy (D-San Francisco) over control of the lower house. But Assembly Republicans so feared the electoral prowess of Berman-Waxman that the GOP cut a deal with Assemblyman Willie Brown Jr. (D-San Francisco) rather than risk a Berman speakership. Once Brown solidified his hold on the top job, he enlisted Berman-Waxman and its tactical arm — BAD Campaigns, led by Howard's brother, Michael Berman, and Michael's partner, Carl D'Agostino — to help protect Democratic control of the Assembly. BAD Campaigns became the leadership's designated Southern California hitter, targeting and raising money for candidates in marginal and vulnerable seats. Its "slate card" operation provided an important tool in the Democrats' campaign arsenal.

The wheels of the vaunted machine came off in the 1992 primaries for the U.S. Senate, when BAD ran campaigns in each Democratic primary, and where its candidates — then-Controller Gray Davis and then-Congressman Mel Levine — were clobbered by Dianne Feinstein and Barbara Boxer. The heretofore tried-and-true BAD strategy — using the early weeks of an election campaign to raise money and garner endorsements, then hit voters with a last-minute barrage of targeted mail and paid media — was out of step with the electorate's revulsion for anything that smacked of "politics as usual." After those primary stumbles, the Berman-Waxman political organization and BAD Campaigns virtually left the radar screen of California politics.

The "edge" that BAD's targeting and campaign expertise offered Democrats in marginal districts, coupled with Berman-Waxman's fund-raising capabilities, might have proved significant in the 1994 elections. With "the boys," as they're sometimes called, and BAD Campaigns pretty much out of the picture, political turmoil in the Southland has escalated. There have been three hotly contested elections on the organization's West Los Angeles "turf" in the last 18 months — the Feuer race and two blistering Assembly battles.

In the absence of a Berman-Waxman endorsement, Assemblyman Wally Knox (D-Los Angeles) triumphed over six opponents in a pitched primary battle; he went on to replace Berman-Waxman ally Burt Margolin — who ran unsuccessfully for insurance commissioner last year. And Assemblywoman Sheila Kuehl (D-Santa Monica) won the seat vacated by Terry Friedman, another ally, after besting five opponents in a bruising Democratic primary.

From the 1970s through the early '90s, Berman-Waxman played an aggressive role in Democratic Party fund-raising. Through their Washington connections and Sacramento links, Howard Berman and Henry Waxman helped to focus some of the party's wealthy national givers on California campaigns. That level of cross-pollination has never really existed on the Republican side. But in recent years, Waxman and Berman have shifted their focus to national issues, and the loss of Democratic power in Congress has naturally decreased their fund-raising clout. As a result, California's congressional delegation has become more distant from state politics and policy. That's not helpful at a time when political allies are essential to solving the state's problems.

Will a "Berman-Waxman" type of political organization rise again in California? Probably not. This "machine" is linked through blood and by friendships going back to college days and Vietnam War protests. Group members shared bonds and political tactics forged in a fight for the soul of the Democratic Party. The political stakes are different today. The debate over the ethos of the Democratic Party has become an argument over whether the party really exists. And for both Democrats and Republicans, a term-limited environment will make it difficult to build lasting legislative relationships. Increasingly feverish and acrimonious electoral competition will make both political and policy collaboration more difficult.

A veteran member characterized the Berman-Waxman alliance as "a product of its time and a very special set of circumstances that brought people together with political skills and policy skills," He added, "Term limits and Democratic disarray are making that coming together less likely."

Today, it's not just the Democrats who are in disarray. And those words provide a fitting coda not only for "the boys" and their dominance of West Los Angeles politics, but for an era in California government and politics as well.

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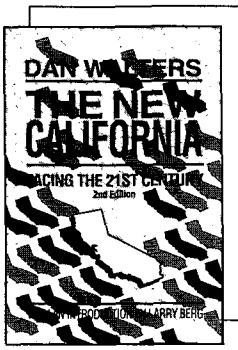

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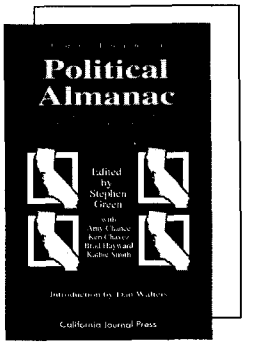

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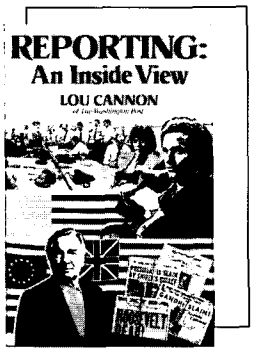

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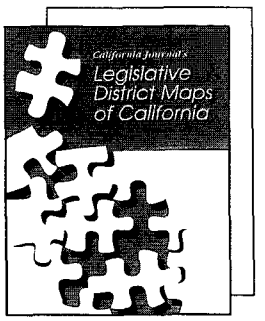

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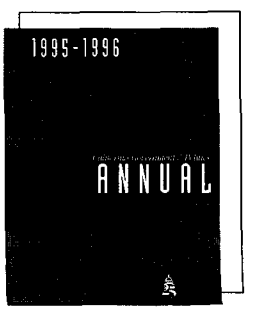

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Washington Notes

PERSPECTIVE

By Marc Sandalow

The clout continues

When Republicans took over Congress this year, the conventional wisdom was that California would suddenly be underrepresented. The enormous California congressional delegation, the reasoning went, would lose considerable clout as years of Democratic seniority would go to waste.

It hasn't happened.

Six months into the new political order, there is scant evidence that the state is losing its share of the federal pie. With 54 electoral votes and enough seats in Congress to make leaders of both parties salivate, California is genuinely regarded in Washington as a Golden State.

It is true that some influential Democrats have lost their powerful perches. Both Senators now toil in the netherworld of the minority. George Miller (D-Martinez) no longer controls environmental legislation from atop the Natural Resources Committee. Ron Dellums (D-Oakland) no longer is czar of armed services. Norm Mineta (D-San Jose) and George Brown (D-Colton) have lost their influential positions over the pork-rich committees of Transportation and Science.

But much of the legislation promoted by those chairmen, particularly Miller and Dellums, was not of the standard pork-laden variety. Indeed, the liberal causes they championed, while hailed by environmentalists and doves, were thought by some to be counter to the economic interests of the state.

And perhaps more to the point, the new Congress is just as stocked with influential Californians — albeit from the other side of the roster — as the last. Although California lost four committee chairman (five if one counts the District of Columbia Committee formerly headed by Pete Stark of Oakland), Republicans head 14 House subcommittees, more than their Democratic counterparts during the last Congress. Appropriators just now are beginning to dole out dollars, and it will be several months until the number crunchers can accurately assess how well California fared. But on issues from immigration, tax credits for research-and-development, the future of NASA or disaster relief, the state's agenda has had no difficulty gaining the attention of the leadership.

House Speaker Newt Gingrich has established a California Task Force, whose 25 members consist of the entire GOP delegation. The task force helps focus the speaker on California issues, and keeps his staff in daily touch with California lawmakers.

"Having the attention of the speaker has been very helpful," said Representative David Dreier (R-Covina). "Newt Gingrich recognizes the significance of California. Having a speaker's task force on California far and away transcends the impact that those [Democratic] chairman would have."

Dreier, a 42-year-old Arnie Becker look-alike, was first elected to the House at age 27. Now in this eighth term, Dreier is well connected from his post as chair of the Rules subcommittee, and was one of only two Republicans to whom Gingrich handed the gavel on the Congress' opening day. The other power in the GOP delegation is Chris Cox (R-Newport Beach), the fifth ranking member of the Republican House leadership, behind Gingrich, Dick Armey, Tom DeLay and John Boehner. As head of the House Republican Policy Committee, Cox has a strong hand in determining which issues — such as his cherished tort reform — will come before the House, and is in daily touch with the leadership. A former partner in the Los Angeles law firm of Latham & Watkins, he and Dreier are considered likely challengers to Senator Barbara Boxer when her term expires in 1998.

Other Republican leaders include Jerry Lewis of Redlands, one of the 13 "Cardinals of Appropriations" by virtue of his chairmanship of the influential committee's VA-HUD subcommittee. Richard Pombo of Stockton, in only his second term, has made a name for himself as the GOP's point person in charge of dismantling the Endangered Species Act, which Pombo says has burdened his own family ranch in eastern Alameda County. Danville's Bill Baker, who represented Contra Costa County for years in Sacramento, has earned a solid reputation as loyal conservative. And Palm Springs' Sonny Bono attracts attention everywhere he goes.

California's delegation has always been different. When House Republicans revived a plan this summer to drill for oil off the nation's coast, all 23 members of the Florida delegation banded together to say no. California's lawmakers took up the issue and reached no agreement.

It should come as no surprise that any club that includes both Robert Dornan and Ron Dellums is rarely able to reach consensus. But that diversity is often overlooked when observers evaluate what has happened to the Golden State's influence in Washington's new political order. The analysts who predicted that California's interests would go unattended failed to address a fundamental point — what is California's interest?

Is it the views of Frank Riggs (R-Napa), who worked hard to prohibit offshore oil drilling, or Baker, who thinks drilling is a wise idea? Is it Miller's quest to protect our natural resources, or Pombo's crusade to limit the Endangered Species Act?

California is simply so large, with such an enormous range of interests, that what is bad for one part of the state is often good for another. The clout lost by some members of the delegation has simply been picked up by others.

Marc Sandalow is a Washington correspondent for The San Francisco Chronicle.

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